

**As Pending in the House Finance and Appropriations Committee
(L# 2171-5)**

**129th General Assembly
Regular Session
2011-2012**

Sub. H. B. No. 487

Representative Amstutz (By Request)

—

A B I L L

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October 1, 2012, to continue the provisions of 271
this act on and after that effective date; to make 272
operating and other appropriations and to provide 273
authorization and conditions for the operation of 274
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

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4961.03, 4965.54, 5101.46, 5101.461, 5101.60, 5101.61, 5104.012,	373
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5111.033, 5111.034, 5111.06, 5111.091, 5111.113, 5111.171,	375
5111.20, 5111.222, 5111.23, 5111.242, 5111.254, 5111.862,	376
5111.874, 5111.877, 5111.878, 5111.894, 5111.941, 5111.97,	377
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5123.0412, 5123.0414, 5123.0415, 5123.081, 5123.16, 5123.161, 381
5123.162, 5123.163, 5123.164, 5123.166, 5123.169, 5123.171, 382
5123.19, 5123.31, 5123.38, 5123.41, 5123.50, 5123.51, 5123.542, 383
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5126.25, 5126.251, 5126.51, 5139.41, 5139.43, 5149.311, 5153.18, 386
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5709.212, 5709.73, 5709.75, 5719.13, 5725.14, 5725.15, 5725.16, 389
5725.17, 5725.22, 5725.221, 5731.39, 5733.064, 5739.01, 5743.03, 390
5743.031, 5751.033, 5751.12, 6109.21, and 6111.46 be amended; 391
sections 123.011 (123.22), 123.024 (123.06), 123.04 (123.02), 392
123.07 (123.03), 123.08 (123.18), 123.09 (123.04), 123.10 393
(123.05), 123.101 (123.27), 123.11 (123.07), 123.13 (123.08), 394
123.14 (123.09), 123.15 (123.10), 123.17 (123.24), 123.21 395
(123.11), 123.46 (123.12), 123.47 (123.13), 123.48 (123.14), 396
123.49 (123.15), 123.77 (123.17), 185.01 (3701.92), 185.02 397
(3701.923), 185.03 (3701.924), 185.05 (3701.925), 185.06 398
(3701.926), 185.07 (3701.927), 185.09 (3701.928), 185.12 399
(3701.929), 1502.01 (3736.01), 1502.02 (3736.03), 1502.03 400
(3736.02), 1502.04 (3736.04), 1502.05 (3736.05), 1502.06 401
(3736.06), 1502.07 (3736.07), 1502.12 (3734.822), 1502.99 402
(3736.99), 3702.522 (3702.521), 3702.523 (3702.522), 3702.524 403
(3702.523), 3702.525 (3702.524), 3702.526 (3702.525), 3733.02 404
(4781.26), 3733.021 (4781.31), 3733.022 (4781.32), 3733.024 405
(4781.33), 3733.025 (4781.34), 3733.03 (4781.27), 3733.04 406
(4781.28), 3733.05 (4781.29), 3733.06 (4781.30), 3733.07 407
(4781.301), 3733.08 (4781.35), 3733.09 (4781.36), 3733.091 408
(4781.37), 3733.10 (4781.38), 3733.101 (4781.39), 3733.11 409
(4781.40), 3733.12 (4781.41), 3733.121 (4781.42), 3733.122 410
(4781.43), 3733.123 (4781.44), 3733.13 (4781.45), 3733.14 411
(4781.46), 3733.15 (4781.47), 3733.16 (4781.48), 3733.17 412

(4781.49), 3733.18 (4781.50), 3733.19 (4781.51), 3733.20 413
(4781.52), 5123.169 (5123.1610), 5503.21 (5502.05), 5503.22 414
(5502.06), and 5503.23 (5502.07) be amended for the purpose of 415
adopting new section numbers as indicated in parentheses; and new 416
sections 123.21, 3702.526, 4905.80, 4905.81, 4921.01, 4921.03, 417
4921.05, 4921.07, 4921.09, 4921.11, 4921.13, 4921.15, 4921.16, 418
4921.19, 4921.25, 4921.30, 4921.32, 4921.36, 4921.38, 4923.01, 419
4923.02, 4923.04, 4923.06, 4923.07, 4923.09, 4923.11, 4923.99, 420
5123.169, and 5123.192 and sections 121.35, 123.20, 123.201, 421
123.23, 123.26, 191.01, 191.02, 191.04, 191.06, 1533.081, 422
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3701.772, 3701.773, 3701.774, 3701.775, 3701.921, 3701.922, 424
3701.93, 3701.931, 3701.932, 3701.933, 3701.934, 3701.935, 425
3701.936, 3701.937, 3701.938, 3701.9310, 3701.9311, 3701.9312, 426
3701.9314, 3702.511, 3702.527, 3793.041, 3798.01, 3798.02, 427
3798.03, 3798.04, 3798.06, 3798.08, 3798.10, 3798.12, 3798.13, 428
3798.14, 3798.15, 3798.16, 4730.411, 4731.297, 4781.121, 4781.54, 429
4921.21, 4921.34, 4923.15, 5101.101, 5111.246, 5111.946, 5111.96, 430
5112.331, 5139.511, and 5713.012 of the Revised Code be enacted to 431
read as follows: 432

Sec. 7.10. For the publication of advertisements, notices, 433
and proclamations, except those relating to proposed amendments to 434
the Ohio Constitution, required to be published by a public 435
officer of the state, a benevolent or other public institution, a 436
trustee, assignee, executor, or administrator, or by or in any 437
court of record, except when the rate is otherwise fixed by law, 438
publishers of newspapers may charge and receive for such 439
advertisements, notices, and proclamations rates charged on annual 440
contracts by them for a like amount of space to other advertisers 441
who advertise in its general display advertising columns. 442

For the publication of advertisements, notices, or 443

proclamations required to be published by a public officer of a 444
county, municipal corporation, township, school, or other 445
political subdivision, publishers of newspapers shall establish a 446
government rate, which shall include free publication of 447
advertisements, notices, or proclamations on the newspaper's 448
internet web site, if the newspaper has one. The government rate 449
shall not exceed the lowest classified advertising rate and lowest 450
insert rate paid by other advertisers. 451

Legal advertising, except that relating to proposed 452
amendments to the Ohio Constitution, shall be set up in a compact 453
form, without unnecessary spaces, blanks, or headlines, and 454
printed in not smaller than six-point type. The type used must be 455
of such proportions that the body of the capital letter M is no 456
wider than it is high and all other letters and characters are in 457
proportion. 458

Except as provided in section 2701.09 of the Revised Code, 459
all legal advertisements or notices shall be printed in ~~newspapers~~ 460
a newspaper of general circulation ~~and also shall be posted on the~~ 461
~~state public notice web site created under section 125.182 of the~~ 462
~~Revised Code,~~ and on a the newspaper's internet web site, if the 463
newspaper has one. 464

Sec. 7.16. (A) As used in this section: 465

(1) "State agency" means any organized body, office, agency, 466
institution, or other entity established by the laws of the state 467
for the exercise of any function of state government, including 468
state institutions of higher education, as defined in section 469
3345.011 of the Revised Code. 470

(2) "Political subdivision" has the meaning defined in 471
section 2744.01 of the Revised Code. 472

(B) If a section of the Revised Code or an administrative 473

rule requires a state agency or a political subdivision ~~of the~~ 474
~~state~~ to publish a notice or advertisement two or more times in a 475
newspaper of general circulation and the section or administrative 476
rule refers to this section, the first publication of the notice 477
or advertisement shall be made in its entirety in a newspaper of 478
general circulation and may be made in a preprinted insert in the 479
newspaper, but the second publication otherwise required by that 480
section or administrative rule may be made in abbreviated form in 481
a newspaper of general circulation in the state or in the 482
political subdivision, as designated in that section or 483
administrative rule, and on the newspaper's internet web site, if 484
the newspaper has one. The state agency or political subdivision 485
may eliminate any further newspaper publications required by that 486
section or administrative rule, provided that the second, 487
abbreviated notice or advertisement meets all of the following 488
requirements: 489

(1) It is published in the newspaper of general circulation 490
in which the first publication of the notice or advertisement was 491
made and is published on that newspaper's internet web site, if 492
the newspaper has one. 493

(2) It is published on the state public notice web site 494
established under section 125.182 of the Revised Code. 495

(3) It includes a title, followed by a summary paragraph or 496
statement that clearly describes the specific purpose of the 497
notice or advertisement, and includes a statement that the notice 498
or advertisement is posted in its entirety on the state public 499
notice web site ~~established under section 125.182 of the Revised~~ 500
~~Code.~~ The notice or advertisement also may be posted on the state 501
agency's or political subdivision's internet web site. 502

~~(3)~~(4) It includes the internet addresses of the state public 503
notice web site, and of the newspaper's and state agency's or 504
political subdivision's internet web site if the notice or 505

advertisement is posted on those web sites, and the name, address, 506
telephone number, and electronic mail address of the state agency, 507
political subdivision, or other party responsible for publication 508
of the notice or advertisement. 509

~~(B)~~(C) A notice or advertisement published under this section 510
on an internet web site shall be published in its entirety in 511
accordance with the section of the Revised Code or the 512
administrative rule that requires the publication. 513

~~(C)~~(D) If a state agency or political subdivision does not 514
~~operate and maintain, or ceases to operate and maintain, an~~ 515
~~internet web site, and if~~ the state public notice web site 516
established under section 125.182 of the Revised Code is not 517
operational, the state agency or political subdivision shall not 518
publish a notice or advertisement under this section, but instead 519
shall comply with the publication requirements of the section of 520
the Revised Code or the administrative rule that refers to this 521
section. 522

Sec. 9.91. ~~If the~~ (A) Both of the following apply when a 523
governing board of a public institution of higher education or the 524
board of education of a school district procures a tax-sheltered 525
annuity for an employee, pursuant to section 9.90 of the Revised 526
Code, ~~that meets:~~ 527

(1) No tax-sheltered annuity may be procured unless it meets 528
the requirements of ~~section 403(b) of the "Internal Revenue Code~~ 529
of ~~1954 1986,"~~ 100 Stat. 2085, 26 U.S.C.A. 403(b), ~~the employee~~ 530
~~has the right to~~ as amended; 531

(2) The board shall arrange for the placement or purchase of 532
the tax-sheltered annuity by doing one of the following: 533

(a) Selecting one or more authorized providers of 534
tax-sheltered annuities through a competitive bidding process, as 535

provided under sections 125.01 to 125.11 of the Revised Code; 536

(b) Using the standardized plan document developed under 537
division (B)(1) of this section to select providers designated 538
under Chapter 3305. of the Revised Code as providers of investment 539
options for an alternative retirement plan; 540

(c) Requiring the employee to designate the a licensed agent, 541
broker, or company through whom the board shall arrange for the 542
placement or purchase of the tax sheltered annuity as the 543
provider. In 544

(B)(1) The Ohio board of regents shall develop a standardized 545
plan document to be used by a governing board of a public 546
institution of higher education or the board of education of a 547
school district when the board selects a provider under division 548
(A)(2)(b) of this section. 549

(2) Each board that selects a provider under division 550
(A)(2)(b) of this section shall periodically review each provider 551
to ensure that the provider maintains its designation under 552
Chapter 3305. of the Revised Code. The board shall not select a 553
provider that is not designated or no longer holds a designation 554
under Chapter 3305. of the Revised Code. 555

(C) In any case in which the employee has designated such an 556
agent, broker, or company under division (A)(2)(c) of this 557
section, the board shall comply with the designation, provided 558
that the board may impose either or both of the following as 559
conditions to complying with any such designations: 560

~~(A)~~(1) The designee must execute a reasonable agreement 561
protecting the institution or district from any liability 562
attendant to procuring the annuity; 563

~~(B)~~(2) The designee must be designated by a number of 564
employees equal to at least one per cent of the board's full-time 565
employees or at least five employees, whichever is greater, except 566

that the board may not require that the agent, broker, or company 567
be designated by more than fifty employees. 568

Sec. 102.02. (A) Except as otherwise provided in division (H) 569
of this section, all of the following shall file with the 570
appropriate ethics commission the disclosure statement described 571
in this division on a form prescribed by the appropriate 572
commission: every person who is elected to or is a candidate for a 573
state, county, or city office and every person who is appointed to 574
fill a vacancy for an unexpired term in such an elective office; 575
all members of the state board of education; the director, 576
assistant directors, deputy directors, division chiefs, or persons 577
of equivalent rank of any administrative department of the state; 578
the president or other chief administrative officer of every state 579
institution of higher education as defined in section 3345.011 of 580
the Revised Code; the executive director and the members of the 581
capitol square review and advisory board appointed or employed 582
pursuant to section 105.41 of the Revised Code; all members of the 583
Ohio casino control commission, the executive director of the 584
commission, all professional employees of the commission, and all 585
technical employees of the commission who perform an internal 586
audit function; the individuals set forth in division (B)(2) of 587
section 187.03 of the Revised Code; the chief executive officer 588
and the members of the board of each state retirement system; each 589
employee of a state retirement board who is a state retirement 590
system investment officer licensed pursuant to section 1707.163 of 591
the Revised Code; the members of the Ohio retirement study council 592
appointed pursuant to division (C) of section 171.01 of the 593
Revised Code; employees of the Ohio retirement study council, 594
other than employees who perform purely administrative or clerical 595
functions; the administrator of workers' compensation and each 596
member of the bureau of workers' compensation board of directors; 597
the bureau of workers' compensation director of investments; the 598

chief investment officer of the bureau of workers' compensation; 599
all members of the board of commissioners on grievances and 600
discipline of the supreme court and the ethics commission created 601
under section 102.05 of the Revised Code; every business manager, 602
treasurer, or superintendent of a city, local, exempted village, 603
joint vocational, or cooperative education school district or an 604
educational service center; every person who is elected to or is a 605
candidate for the office of member of a board of education of a 606
city, local, exempted village, joint vocational, or cooperative 607
education school district or of a governing board of an 608
educational service center that has a total student count of 609
twelve thousand or more as most recently determined by the 610
department of education pursuant to section 3317.03 of the Revised 611
Code; every person who is appointed to the board of education of a 612
municipal school district pursuant to division (B) or (F) of 613
section 3311.71 of the Revised Code; all members of the board of 614
directors of a sanitary district that is established under Chapter 615
6115. of the Revised Code and organized wholly for the purpose of 616
providing a water supply for domestic, municipal, and public use, 617
and that includes two municipal corporations in two counties; 618
every public official or employee who is paid a salary or wage in 619
accordance with schedule C of section 124.15 or schedule E-2 of 620
section 124.152 of the Revised Code; members of the board of 621
trustees and the executive director of the southern Ohio 622
agricultural and community development foundation; all members 623
appointed to the Ohio livestock care standards board under section 624
904.02 of the Revised Code; and every other public official or 625
employee who is designated by the appropriate ethics commission 626
pursuant to division (B) of this section. 627

The disclosure statement shall include all of the following: 628

(1) The name of the person filing the statement and each 629
member of the person's immediate family and all names under which 630

the person or members of the person's immediate family do 631
business; 632

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section 633
and except as otherwise provided in section 102.022 of the Revised 634
Code, identification of every source of income, other than income 635
from a legislative agent identified in division (A)(2)(b) of this 636
section, received during the preceding calendar year, in the 637
person's own name or by any other person for the person's use or 638
benefit, by the person filing the statement, and a brief 639
description of the nature of the services for which the income was 640
received. If the person filing the statement is a member of the 641
general assembly, the statement shall identify the amount of every 642
source of income received in accordance with the following ranges 643
of amounts: zero or more, but less than one thousand dollars; one 644
thousand dollars or more, but less than ten thousand dollars; ten 645
thousand dollars or more, but less than twenty-five thousand 646
dollars; twenty-five thousand dollars or more, but less than fifty 647
thousand dollars; fifty thousand dollars or more, but less than 648
one hundred thousand dollars; and one hundred thousand dollars or 649
more. Division (A)(2)(a) of this section shall not be construed to 650
require a person filing the statement who derives income from a 651
business or profession to disclose the individual items of income 652
that constitute the gross income of that business or profession, 653
except for those individual items of income that are attributable 654
to the person's or, if the income is shared with the person, the 655
partner's, solicitation of services or goods or performance, 656
arrangement, or facilitation of services or provision of goods on 657
behalf of the business or profession of clients, including 658
corporate clients, who are legislative agents. A person who files 659
the statement under this section shall disclose the identity of 660
and the amount of income received from a person who the public 661
official or employee knows or has reason to know is doing or 662
seeking to do business of any kind with the public official's or 663

employee's agency. 664

(b) If the person filing the statement is a member of the 665
general assembly, the statement shall identify every source of 666
income and the amount of that income that was received from a 667
legislative agent during the preceding calendar year, in the 668
person's own name or by any other person for the person's use or 669
benefit, by the person filing the statement, and a brief 670
description of the nature of the services for which the income was 671
received. Division (A)(2)(b) of this section requires the 672
disclosure of clients of attorneys or persons licensed under 673
section 4732.12 of the Revised Code, or patients of persons 674
certified under section 4731.14 of the Revised Code, if those 675
clients or patients are legislative agents. Division (A)(2)(b) of 676
this section requires a person filing the statement who derives 677
income from a business or profession to disclose those individual 678
items of income that constitute the gross income of that business 679
or profession that are received from legislative agents. 680

(c) Except as otherwise provided in division (A)(2)(c) of 681
this section, division (A)(2)(a) of this section applies to 682
attorneys, physicians, and other persons who engage in the 683
practice of a profession and who, pursuant to a section of the 684
Revised Code, the common law of this state, a code of ethics 685
applicable to the profession, or otherwise, generally are required 686
not to reveal, disclose, or use confidences of clients, patients, 687
or other recipients of professional services except under 688
specified circumstances or generally are required to maintain 689
those types of confidences as privileged communications except 690
under specified circumstances. Division (A)(2)(a) of this section 691
does not require an attorney, physician, or other professional 692
subject to a confidentiality requirement as described in division 693
(A)(2)(c) of this section to disclose the name, other identity, or 694
address of a client, patient, or other recipient of professional 695

services if the disclosure would threaten the client, patient, or 696
other recipient of professional services, would reveal details of 697
the subject matter for which legal, medical, or professional 698
advice or other services were sought, or would reveal an otherwise 699
privileged communication involving the client, patient, or other 700
recipient of professional services. Division (A)(2)(a) of this 701
section does not require an attorney, physician, or other 702
professional subject to a confidentiality requirement as described 703
in division (A)(2)(c) of this section to disclose in the brief 704
description of the nature of services required by division 705
(A)(2)(a) of this section any information pertaining to specific 706
professional services rendered for a client, patient, or other 707
recipient of professional services that would reveal details of 708
the subject matter for which legal, medical, or professional 709
advice was sought or would reveal an otherwise privileged 710
communication involving the client, patient, or other recipient of 711
professional services. 712

(3) The name of every corporation on file with the secretary 713
of state that is incorporated in this state or holds a certificate 714
of compliance authorizing it to do business in this state, trust, 715
business trust, partnership, or association that transacts 716
business in this state in which the person filing the statement or 717
any other person for the person's use and benefit had during the 718
preceding calendar year an investment of over one thousand dollars 719
at fair market value as of the thirty-first day of December of the 720
preceding calendar year, or the date of disposition, whichever is 721
earlier, or in which the person holds any office or has a 722
fiduciary relationship, and a description of the nature of the 723
investment, office, or relationship. Division (A)(3) of this 724
section does not require disclosure of the name of any bank, 725
savings and loan association, credit union, or building and loan 726
association with which the person filing the statement has a 727
deposit or a withdrawable share account. 728

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

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

(6) The names of all persons residing or transacting business in the state, other than a depository excluded under division (A)(3) of this section, who owe more than one thousand dollars to the person filing the statement, either in the person's own name or to any person for the person's use or benefit. Division (A)(6) of this section shall not be construed to require the disclosure of clients of attorneys or persons licensed under section 4732.12 or 4732.15 of the Revised Code, or patients of persons certified under section 4731.14 of the Revised Code, nor the disclosure of

debts owed to the person resulting from the ordinary conduct of a 761
business or profession. 762

(7) Except as otherwise provided in section 102.022 of the 763
Revised Code, the source of each gift of over seventy-five 764
dollars, or of each gift of over twenty-five dollars received by a 765
member of the general assembly from a legislative agent, received 766
by the person in the person's own name or by any other person for 767
the person's use or benefit during the preceding calendar year, 768
except gifts received by will or by virtue of section 2105.06 of 769
the Revised Code, or received from spouses, parents, grandparents, 770
children, grandchildren, siblings, nephews, nieces, uncles, aunts, 771
brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, 772
fathers-in-law, mothers-in-law, or any person to whom the person 773
filing the statement stands in loco parentis, or received by way 774
of distribution from any inter vivos or testamentary trust 775
established by a spouse or by an ancestor; 776

(8) Except as otherwise provided in section 102.022 of the 777
Revised Code, identification of the source and amount of every 778
payment of expenses incurred for travel to destinations inside or 779
outside this state that is received by the person in the person's 780
own name or by any other person for the person's use or benefit 781
and that is incurred in connection with the person's official 782
duties, except for expenses for travel to meetings or conventions 783
of a national or state organization to which any state agency, 784
including, but not limited to, any legislative agency or state 785
institution of higher education as defined in section 3345.011 of 786
the Revised Code, pays membership dues, or any political 787
subdivision or any office or agency of a political subdivision 788
pays membership dues; 789

(9) Except as otherwise provided in section 102.022 of the 790
Revised Code, identification of the source of payment of expenses 791
for meals and other food and beverages, other than for meals and 792

other food and beverages provided at a meeting at which the person 793
participated in a panel, seminar, or speaking engagement or at a 794
meeting or convention of a national or state organization to which 795
any state agency, including, but not limited to, any legislative 796
agency or state institution of higher education as defined in 797
section 3345.011 of the Revised Code, pays membership dues, or any 798
political subdivision or any office or agency of a political 799
subdivision pays membership dues, that are incurred in connection 800
with the person's official duties and that exceed one hundred 801
dollars aggregated per calendar year; 802

(10) If the disclosure statement is filed by a public 803
official or employee described in division (B)(2) of section 804
101.73 of the Revised Code or division (B)(2) of section 121.63 of 805
the Revised Code who receives a statement from a legislative 806
agent, executive agency lobbyist, or employer that contains the 807
information described in division (F)(2) of section 101.73 of the 808
Revised Code or division (G)(2) of section 121.63 of the Revised 809
Code, all of the nondisputed information contained in the 810
statement delivered to that public official or employee by the 811
legislative agent, executive agency lobbyist, or employer under 812
division (F)(2) of section 101.73 or (G)(2) of section 121.63 of 813
the Revised Code. 814

A person may file a statement required by this section in 815
person or by mail. A person who is a candidate for elective office 816
shall file the statement no later than the thirtieth day before 817
the primary, special, or general election at which the candidacy 818
is to be voted on, whichever election occurs soonest, except that 819
a person who is a write-in candidate shall file the statement no 820
later than the twentieth day before the earliest election at which 821
the person's candidacy is to be voted on. A person who holds 822
elective office shall file the statement on or before the 823
fifteenth day of April of each year unless the person is a 824

candidate for office. A person who is appointed to fill a vacancy 825
for an unexpired term in an elective office shall file the 826
statement within fifteen days after the person qualifies for 827
office. Other persons shall file an annual statement on or before 828
the fifteenth day of April or, if appointed or employed after that 829
date, within ninety days after appointment or employment. No 830
person shall be required to file with the appropriate ethics 831
commission more than one statement or pay more than one filing fee 832
for any one calendar year. 833

The appropriate ethics commission, for good cause, may extend 834
for a reasonable time the deadline for filing a statement under 835
this section. 836

A statement filed under this section is subject to public 837
inspection at locations designated by the appropriate ethics 838
commission except as otherwise provided in this section. 839

(B) The Ohio ethics commission, the joint legislative ethics 840
committee, and the board of commissioners on grievances and 841
discipline of the supreme court, using the rule-making procedures 842
of Chapter 119. of the Revised Code, may require any class of 843
public officials or employees under its jurisdiction and not 844
specifically excluded by this section whose positions involve a 845
substantial and material exercise of administrative discretion in 846
the formulation of public policy, expenditure of public funds, 847
enforcement of laws and rules of the state or a county or city, or 848
the execution of other public trusts, to file an annual statement 849
on or before the fifteenth day of April under division (A) of this 850
section. The appropriate ethics commission shall send the public 851
officials or employees written notice of the requirement by the 852
fifteenth day of February of each year the filing is required 853
unless the public official or employee is appointed after that 854
date, in which case the notice shall be sent within thirty days 855
after appointment, and the filing shall be made not later than 856

ninety days after appointment. 857

Except for disclosure statements filed by members of the 858
board of trustees and the executive director of the southern Ohio 859
agricultural and community development foundation, disclosure 860
statements filed under this division with the Ohio ethics 861
commission by members of boards, commissions, or bureaus of the 862
state for which no compensation is received other than reasonable 863
and necessary expenses shall be kept confidential. Disclosure 864
statements filed with the Ohio ethics commission under division 865
(A) of this section by business managers, treasurers, and 866
superintendents of city, local, exempted village, joint 867
vocational, or cooperative education school districts or 868
educational service centers shall be kept confidential, except 869
that any person conducting an audit of any such school district or 870
educational service center pursuant to section 115.56 or Chapter 871
117. of the Revised Code may examine the disclosure statement of 872
any business manager, treasurer, or superintendent of that school 873
district or educational service center. Disclosure statements 874
filed with the Ohio ethics commission under division (A) of this 875
section by the individuals set forth in division (B)(2) of section 876
187.03 of the Revised Code shall be kept confidential. The Ohio 877
ethics commission shall examine each disclosure statement required 878
to be kept confidential to determine whether a potential conflict 879
of interest exists for the person who filed the disclosure 880
statement. A potential conflict of interest exists if the private 881
interests of the person, as indicated by the person's disclosure 882
statement, might interfere with the public interests the person is 883
required to serve in the exercise of the person's authority and 884
duties in the person's office or position of employment. If the 885
commission determines that a potential conflict of interest 886
exists, it shall notify the person who filed the disclosure 887
statement and shall make the portions of the disclosure statement 888
that indicate a potential conflict of interest subject to public 889

inspection in the same manner as is provided for other disclosure 890
statements. Any portion of the disclosure statement that the 891
commission determines does not indicate a potential conflict of 892
interest shall be kept confidential by the commission and shall 893
not be made subject to public inspection, except as is necessary 894
for the enforcement of Chapters 102. and 2921. of the Revised Code 895
and except as otherwise provided in this division. 896

(C) No person shall knowingly fail to file, on or before the 897
applicable filing deadline established under this section, a 898
statement that is required by this section. 899

(D) No person shall knowingly file a false statement that is 900
required to be filed under this section. 901

(E)(1) Except as provided in divisions (E)(2) and (3) of this 902
section, the statement required by division (A) or (B) of this 903
section shall be accompanied by a filing fee of ~~forty~~ sixty 904
dollars. 905

(2) The statement required by division (A) of this section 906
shall be accompanied by the following filing fee to be paid by the 907
person who is elected or appointed to, or is a candidate for, any 908
of the following offices: 909

For state office, except member of the		910
state board of education	\$95	911
For office of member of general assembly	\$40	912
For county office	\$60	913
For city office	\$35	914
For office of member of the state board		915
of education	\$25 <u>\$35</u>	916
For office of member of the Ohio		917
livestock care standards board	\$.....	918
For office of member of a city, local,		919
exempted village, or cooperative		920

education board of	921
education or educational service	922
center governing board	\$30 923
For position of business manager,	924
treasurer, or superintendent of a	925
city, local, exempted village, joint	926
vocational, or cooperative education	927
school district or	928
educational service center	\$30 929

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

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

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

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

(2) The Ohio ethics commission shall deposit all receipts, including, but not limited to, fees it receives under divisions (E) and (F) of this section, investigative or other fees, costs, or other funds it receives as a result of court orders, and all

moneys it receives from settlements under division (G) of section 953
102.06 of the Revised Code, into the Ohio ethics commission fund, 954
which is hereby created in the state treasury. All moneys credited 955
to the fund shall be used solely for expenses related to the 956
operation and statutory functions of the commission. 957

(3) The joint legislative ethics committee shall deposit all 958
receipts it receives from the payment of financial disclosure 959
statement filing fees under divisions (E) and (F) of this section 960
into the joint legislative ethics committee investigative fund. 961

(H) Division (A) of this section does not apply to a person 962
elected or appointed to the office of precinct, ward, or district 963
committee member under Chapter 3517. of the Revised Code; a 964
presidential elector; a delegate to a national convention; village 965
or township officials and employees; any physician or psychiatrist 966
who is paid a salary or wage in accordance with schedule C of 967
section 124.15 or schedule E-2 of section 124.152 of the Revised 968
Code and whose primary duties do not require the exercise of 969
administrative discretion; or any member of a board, commission, 970
or bureau of any county or city who receives less than one 971
thousand dollars per year for serving in that position. 972

Sec. 103.51. (A) There is hereby created the legislative task 973
force on redistricting, reapportionment, elections, and 974
demographic research, consisting of six members. The president of 975
the senate shall appoint three members, not more than two of whom 976
shall be members of the same political party. One member appointed 977
by the president shall not be a member of the general assembly. 978
The speaker of the house of representatives shall appoint three 979
members, not more than two of whom shall be members of the same 980
political party. One member appointed by the speaker shall not be 981
a member of the general assembly. 982

Appointments to the task force shall be made within fifteen 983

days after the commencement of the first regular session of each 984
general assembly in the manner prescribed in this division. A 985
vacancy on the task force shall be filled for the unexpired term 986
in the same manner as the original appointment. Members of the 987
task force shall serve on the task force until the appointments 988
are made in the first regular session of the following general 989
assembly or, in the case of task force members who also are 990
general assembly members when appointed, until they are no longer 991
general assembly members. 992

The president of the senate shall appoint a member of the 993
task force, and the speaker of the house of representatives shall 994
appoint a member of the task force, to serve as ~~co-chairmen~~ 995
co-chairpersons of the task force. The ~~co-chairmen~~ co-chairpersons 996
shall be members of different political parties. The ~~co-chairmen~~ 997
co-chairpersons may enter into any agreements on behalf of the 998
task force and perform any acts that may be necessary or proper 999
for the task force to carry out its powers and duties under this 1000
section. 1001

(B) The members of the task force shall serve without 1002
compensation, but shall be reimbursed for their actual and 1003
necessary expenses incurred in the performance of their official 1004
duties. 1005

(C) The task force shall do all of the following: 1006

(1) Provide such assistance to the general assembly and its 1007
committees as requested in order to help the general assembly 1008
fulfill its duty to establish districts for the election of 1009
representatives to congress; 1010

(2) Provide such assistance to the apportionment board as 1011
requested in order to help it fulfill its duty to provide for the 1012
apportionment of this state for members of the general assembly. 1013
As used in this section, "apportionment board" means the persons 1014

designated in Section 1 of Article XI, Ohio Constitution, as being 1015
responsible for that apportionment. 1016

(3) Provide such assistance to the general assembly and its 1017
committees as requested in order to help the general assembly in 1018
its evaluation of election law proposals; 1019

(4) Engage in such research studies and other activities as 1020
the task force considers necessary or appropriate in the 1021
preparation and formulation of a plan for the next apportionment 1022
of the state for members of the general assembly ~~and~~, a plan for 1023
the next establishment of districts for the election of 1024
representatives to congress, election law proposals, and in the 1025
utilization of census and other demographic and statistical data 1026
for policy analysis, program development, and program evaluation 1027
purposes for the benefit of the general assembly. 1028

(D) Notwithstanding any provision of law to the contrary, the 1029
task force may do all of the following: 1030

(1) Hire such employees and engage such experts and technical 1031
advisors and fix their compensation, and obtain such services, as 1032
are necessary for the task force to exercise its duties under this 1033
section; 1034

(2) Authorize the providing of such services and the 1035
furnishing of such data by the task force to any state agency or 1036
political subdivision of this state as the task force may specify, 1037
on such terms and conditions as the task force may specify, 1038
including the amount of the payment for providing the services and 1039
furnishing the data; 1040

(3) Conduct meetings and hearings both within and outside 1041
this state and otherwise exercise all of the powers of a standing 1042
or select committee of the general assembly; 1043

(4) Request and receive from any state agency or political 1044
subdivision of this state such assistance and data as will enable 1045

the task force to exercise its powers and duties under this 1046
section. 1047

Sec. 105.41. (A) There is hereby created in the legislative 1048
branch of government the capitol square review and advisory board, 1049
consisting of ~~thirteen~~ twelve members as follows: 1050

(1) Two members of the senate, appointed by the president of 1051
the senate, both of whom shall not be members of the same 1052
political party; 1053

(2) Two members of the house of representatives, appointed by 1054
the speaker of the house of representatives, both of whom shall 1055
not be members of the same political party; 1056

(3) Five members appointed by the governor, with the advice 1057
and consent of the senate, not more than three of whom shall be 1058
members of the same political party, one of whom shall be the 1059
chief of staff of the governor's office, one of whom shall 1060
represent the Ohio arts council, one of whom shall represent the 1061
Ohio historical society, ~~one of whom shall represent the Ohio~~ 1062
~~building authority,~~ and one of whom shall represent the public at 1063
large; 1064

(4) One member, who shall be a former president of the 1065
senate, appointed by the current president of the senate. If the 1066
current president of the senate, in the current president's 1067
discretion, decides for any reason not to make the appointment or 1068
if no person is eligible or available to serve, the seat shall 1069
remain vacant. 1070

(5) One member, who shall be a former speaker of the house of 1071
representatives, appointed by the current speaker of the house of 1072
representatives. If the current speaker of the house of 1073
representatives, in the current speaker's discretion, decides for 1074
any reason not to make the appointment or if no person is eligible 1075

or available to serve, the seat shall remain vacant. 1076

(6) The clerk of the senate and the clerk of the house of 1077
representatives. 1078

(B) Terms of office of each appointed member of the board 1079
shall be for three years, except that members of the general 1080
assembly appointed to the board shall be members of the board only 1081
so long as they are members of the general assembly and the chief 1082
of staff of the governor's office shall be a member of the board 1083
only so long as the appointing governor remains in office. Each 1084
member shall hold office from the date of the member's appointment 1085
until the end of the term for which the member was appointed. In 1086
case of a vacancy occurring on the board, the president of the 1087
senate, the speaker of the house of representatives, or the 1088
governor, as the case may be, shall in the same manner prescribed 1089
for the regular appointment to the commission, fill the vacancy by 1090
appointing a member. Any member appointed to fill a vacancy 1091
occurring prior to the expiration of the term for which the 1092
member's predecessor was appointed shall hold office for the 1093
remainder of the term. Any appointed member shall continue in 1094
office subsequent to the expiration date of the member's term 1095
until the member's successor takes office, or until a period of 1096
sixty days has elapsed, whichever occurs first. 1097

(C) The board shall hold meetings in a manner and at times 1098
prescribed by the rules adopted by the board. A majority of the 1099
board constitutes a quorum, and no action shall be taken by the 1100
board unless approved by at least six members or by at least seven 1101
members if a person is appointed under division (A)(4) or (5) of 1102
this section. At its first meeting, the board shall adopt rules 1103
for the conduct of its business and the election of its officers, 1104
and shall organize by selecting a chairperson and other officers 1105
as it considers necessary. Board members shall serve without 1106
compensation but shall be reimbursed for actual and necessary 1107

expenses incurred in the performance of their duties. 1108

(D) The board may do any of the following: 1109

(1) Employ or hire on a consulting basis professional, 1110
technical, and clerical employees as are necessary for the 1111
performance of its duties. All employees of the board are in the 1112
unclassified service and serve at the pleasure of the board. For 1113
purposes of section 4117.01 of the Revised Code, employees of the 1114
board shall be considered employees of the general assembly, 1115
except that employees who are covered by a collective bargaining 1116
agreement on ~~the effective date of this amendment~~ September 29, 1117
2011, shall remain subject to the agreement until the agreement 1118
expires on its terms, and the agreement shall not be extended or 1119
renewed. Upon expiration of the agreement, the employees are 1120
considered employees of the general assembly for purposes of 1121
section 4117.01 of the Revised Code and are in the unclassified 1122
service and serve at the pleasure of the board. 1123

(2) Hold public hearings at times and places as determined by 1124
the board; 1125

(3) Adopt, amend, or rescind rules necessary to accomplish 1126
the duties of the board as set forth in this section; 1127

(4) Sponsor, conduct, and support such social events as the 1128
board may authorize and consider appropriate for the employees of 1129
the board, employees and members of the general assembly, 1130
employees of persons under contract with the board or otherwise 1131
engaged to perform services on the premises of capitol square, or 1132
other persons as the board may consider appropriate. Subject to 1133
the requirements of Chapter 4303. of the Revised Code, the board 1134
may provide beer, wine, and intoxicating liquor, with or without 1135
charge, for those events and may use funds only from the sale of 1136
goods and services fund to purchase the beer, wine, and 1137
intoxicating liquor the board provides; 1138

(5) Purchase a warehouse in which to store items of the 1139
capitol collection trust and, whenever necessary, equipment or 1140
other property of the board. 1141

(E) The board shall do all of the following: 1142

(1) Have sole authority to coordinate and approve any 1143
improvements, additions, and renovations that are made to the 1144
capitol square. The improvements shall include, but not be limited 1145
to, the placement of monuments and sculpture on the capitol 1146
grounds. 1147

(2) Subject to section 3353.07 of the Revised Code, operate 1148
the capitol square, and have sole authority to regulate all uses 1149
of the capitol square. The uses shall include, but not be limited 1150
to, the casual and recreational use of the capitol square. 1151

(3) Employ, fix the compensation of, and prescribe the duties 1152
of the executive director of the board and other employees the 1153
board considers necessary for the performance of its powers and 1154
duties; 1155

(4) Establish and maintain the capitol collection trust. The 1156
capitol collection trust shall consist of furniture, antiques, and 1157
other items of personal property that the board shall store in 1158
suitable facilities until they are ready to be displayed in the 1159
capitol square. 1160

(5) Perform repair, construction, contracting, purchasing, 1161
maintenance, supervisory, and operating activities the board 1162
determines are necessary for the operation and maintenance of the 1163
capitol square; 1164

(6) Maintain and preserve the capitol square, in accordance 1165
with guidelines issued by the United States secretary of the 1166
interior for application of the secretary's standards for 1167
rehabilitation adopted in 36 C.F.R. part 67; 1168

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

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

(2) Fees, receipts, and revenues received by the board from the state underground parking garage constitute available receipts as defined in section 152.09 of the Revised Code, and may be pledged to the payment of bond service charges on obligations issued by the Ohio building authority pursuant to Chapter 152. of the Revised Code to improve, finance, or purchase capital facilities useful to the board. The authority may, with the consent of the board, provide in the bond proceedings for a pledge of all or a portion of those fees, receipts, and revenues as the authority determines. The authority may provide in the bond proceedings or by separate agreement with the board for the transfer of those fees, receipts, and revenues to the appropriate bond service fund or bond service reserve fund as required to pay the bond service charges when due, and any such provision for the transfer of those fees, receipts, and revenues shall be controlling notwithstanding any other provision of law pertaining to those fees, receipts, and revenues.

(3) All moneys received by the treasurer of state on account of the board and required by the applicable bond proceedings or by

separate agreement with the board to be deposited, transferred, or 1201
credited to the bond service fund or bond service reserve fund 1202
established by the bond proceedings shall be transferred by the 1203
treasurer of state to such fund, whether or not it is in the 1204
custody of the treasurer of state, without necessity for further 1205
appropriation, upon receipt of notice from the Ohio building 1206
authority as prescribed in the bond proceedings. 1207

(G) All fees, receipts, and revenues received by the board 1208
from the state underground parking garage shall be deposited into 1209
the state treasury to the credit of the underground parking garage 1210
operating fund, which is hereby created, to be used for the 1211
purposes specified in division (F) of this section and for the 1212
operation and maintenance of the garage. All investment earnings 1213
of the fund shall be credited to the fund. 1214

(H) All donations received by the board shall be deposited 1215
into the state treasury to the credit of the capitol square 1216
renovation gift fund, which is hereby created. The fund shall be 1217
used by the board as follows: 1218

(1) To provide part or all of the funding related to 1219
construction, goods, or services for the renovation of the capitol 1220
square; 1221

(2) To purchase art, antiques, and artifacts for display at 1222
the capitol square; 1223

(3) To award contracts or make grants to organizations for 1224
educating the public regarding the historical background and 1225
governmental functions of the capitol square. Chapters 125., 127., 1226
and 153. and section 3517.13 of the Revised Code do not apply to 1227
purchases made exclusively from the fund, notwithstanding anything 1228
to the contrary in those chapters or that section. All investment 1229
earnings of the fund shall be credited to the fund. 1230

(I) Except as provided in divisions (G), (H), and (J) of this 1231

section, all fees, receipts, and revenues received by the board 1232
shall be deposited into the state treasury to the credit of the 1233
sale of goods and services fund, which is hereby created. Money 1234
credited to the fund shall be used solely to pay costs of the 1235
board other than those specified in divisions (F) and (G) of this 1236
section. All investment earnings of the fund shall be credited to 1237
the fund. 1238

(J) There is hereby created in the state treasury the capitol 1239
square improvement fund, to be used by the board to pay 1240
construction, renovation, and other costs related to the capitol 1241
square for which money is not otherwise available to the board. 1242
Whenever the board determines that there is a need to incur those 1243
costs and that the unencumbered, unobligated balance to the credit 1244
of the underground parking garage operating fund exceeds the 1245
amount needed for the purposes specified in division (F) of this 1246
section and for the operation and maintenance of the garage, the 1247
board may request the director of budget and management to 1248
transfer from the underground parking garage operating fund to the 1249
capitol square improvement fund the amount needed to pay such 1250
construction, renovation, or other costs. The director then shall 1251
transfer the amount needed from the excess balance of the 1252
underground parking garage operating fund. 1253

(K) As the operation and maintenance of the capitol square 1254
constitute essential government functions of a public purpose, the 1255
board shall not be required to pay taxes or assessments upon the 1256
square, upon any property acquired or used by the board under this 1257
section, or upon any income generated by the operation of the 1258
square. 1259

(L) As used in this section, "capitol square" means the 1260
capitol building, senate building, capitol atrium, capitol 1261
grounds, the state underground parking garage, and the warehouse 1262
owned by the board. 1263

(M) The capitol annex shall be known as the senate building. 1264

Sec. 109.57. (A)(1) The superintendent of the bureau of 1265
criminal identification and investigation shall procure from 1266
wherever procurable and file for record photographs, pictures, 1267
descriptions, fingerprints, measurements, and other information 1268
that may be pertinent of all persons who have been convicted of 1269
committing within this state a felony, any crime constituting a 1270
misdemeanor on the first offense and a felony on subsequent 1271
offenses, or any misdemeanor described in division (A)(1)(a), 1272
(A)~~(8)~~(5)(a), or (A)~~(10)~~(7)(a) of section 109.572 of the Revised 1273
Code, of all children under eighteen years of age who have been 1274
adjudicated delinquent children for committing within this state 1275
an act that would be a felony or an offense of violence if 1276
committed by an adult or who have been convicted of or pleaded 1277
guilty to committing within this state a felony or an offense of 1278
violence, and of all well-known and habitual criminals. The person 1279
in charge of any county, multicounty, municipal, municipal-county, 1280
or multicounty-municipal jail or workhouse, community-based 1281
correctional facility, halfway house, alternative residential 1282
facility, or state correctional institution and the person in 1283
charge of any state institution having custody of a person 1284
suspected of having committed a felony, any crime constituting a 1285
misdemeanor on the first offense and a felony on subsequent 1286
offenses, or any misdemeanor described in division (A)(1)(a), 1287
(A)~~(8)~~(5)(a), or (A)~~(10)~~(7)(a) of section 109.572 of the Revised 1288
Code or having custody of a child under eighteen years of age with 1289
respect to whom there is probable cause to believe that the child 1290
may have committed an act that would be a felony or an offense of 1291
violence if committed by an adult shall furnish such material to 1292
the superintendent of the bureau. Fingerprints, photographs, or 1293
other descriptive information of a child who is under eighteen 1294
years of age, has not been arrested or otherwise taken into 1295

custody for committing an act that would be a felony or an offense 1296
of violence who is not in any other category of child specified in 1297
this division, if committed by an adult, has not been adjudicated 1298
a delinquent child for committing an act that would be a felony or 1299
an offense of violence if committed by an adult, has not been 1300
convicted of or pleaded guilty to committing a felony or an 1301
offense of violence, and is not a child with respect to whom there 1302
is probable cause to believe that the child may have committed an 1303
act that would be a felony or an offense of violence if committed 1304
by an adult shall not be procured by the superintendent or 1305
furnished by any person in charge of any county, multicounty, 1306
municipal, municipal-county, or multicounty-municipal jail or 1307
workhouse, community-based correctional facility, halfway house, 1308
alternative residential facility, or state correctional 1309
institution, except as authorized in section 2151.313 of the 1310
Revised Code. 1311

(2) Every clerk of a court of record in this state, other 1312
than the supreme court or a court of appeals, shall send to the 1313
superintendent of the bureau a weekly report containing a summary 1314
of each case involving a felony, involving any crime constituting 1315
a misdemeanor on the first offense and a felony on subsequent 1316
offenses, involving a misdemeanor described in division (A)(1)(a), 1317
(A)~~(8)~~(5)(a), or (A)~~(10)~~(7)(a) of section 109.572 of the Revised 1318
Code, or involving an adjudication in a case in which a child 1319
under eighteen years of age was alleged to be a delinquent child 1320
for committing an act that would be a felony or an offense of 1321
violence if committed by an adult. The clerk of the court of 1322
common pleas shall include in the report and summary the clerk 1323
sends under this division all information described in divisions 1324
(A)(2)(a) to (f) of this section regarding a case before the court 1325
of appeals that is served by that clerk. The summary shall be 1326
written on the standard forms furnished by the superintendent 1327
pursuant to division (B) of this section and shall include the 1328

following information:	1329
(a) The incident tracking number contained on the standard forms furnished by the superintendent pursuant to division (B) of this section;	1330 1331 1332
(b) The style and number of the case;	1333
(c) The date of arrest, offense, summons, or arraignment;	1334
(d) The date that the person was convicted of or pleaded guilty to the offense, adjudicated a delinquent child for committing the act that would be a felony or an offense of violence if committed by an adult, found not guilty of the offense, or found not to be a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult, the date of an entry dismissing the charge, an entry declaring a mistrial of the offense in which the person is discharged, an entry finding that the person or child is not competent to stand trial, or an entry of a nolle prosequi, or the date of any other determination that constitutes final resolution of the case;	1335 1336 1337 1338 1339 1340 1341 1342 1343 1344 1345 1346
(e) A statement of the original charge with the section of the Revised Code that was alleged to be violated;	1347 1348
(f) If the person or child was convicted, pleaded guilty, or was adjudicated a delinquent child, the sentence or terms of probation imposed or any other disposition of the offender or the delinquent child.	1349 1350 1351 1352
If the offense involved the disarming of a law enforcement officer or an attempt to disarm a law enforcement officer, the clerk shall clearly state that fact in the summary, and the superintendent shall ensure that a clear statement of that fact is placed in the bureau's records.	1353 1354 1355 1356 1357
(3) The superintendent shall cooperate with and assist	1358

sheriffs, chiefs of police, and other law enforcement officers in 1359
the establishment of a complete system of criminal identification 1360
and in obtaining fingerprints and other means of identification of 1361
all persons arrested on a charge of a felony, any crime 1362
constituting a misdemeanor on the first offense and a felony on 1363
subsequent offenses, or a misdemeanor described in division 1364
(A)(1)(a), (A)~~(8)~~(5)(a), or (A)~~(10)~~(7)(a) of section 109.572 of 1365
the Revised Code and of all children under eighteen years of age 1366
arrested or otherwise taken into custody for committing an act 1367
that would be a felony or an offense of violence if committed by 1368
an adult. The superintendent also shall file for record the 1369
fingerprint impressions of all persons confined in a county, 1370
multicounty, municipal, municipal-county, or multicounty-municipal 1371
jail or workhouse, community-based correctional facility, halfway 1372
house, alternative residential facility, or state correctional 1373
institution for the violation of state laws and of all children 1374
under eighteen years of age who are confined in a county, 1375
multicounty, municipal, municipal-county, or multicounty-municipal 1376
jail or workhouse, community-based correctional facility, halfway 1377
house, alternative residential facility, or state correctional 1378
institution or in any facility for delinquent children for 1379
committing an act that would be a felony or an offense of violence 1380
if committed by an adult, and any other information that the 1381
superintendent may receive from law enforcement officials of the 1382
state and its political subdivisions. 1383

(4) The superintendent shall carry out Chapter 2950. of the 1384
Revised Code with respect to the registration of persons who are 1385
convicted of or plead guilty to a sexually oriented offense or a 1386
child-victim oriented offense and with respect to all other duties 1387
imposed on the bureau under that chapter. 1388

(5) The bureau shall perform centralized recordkeeping 1389
functions for criminal history records and services in this state 1390

for purposes of the national crime prevention and privacy compact 1391
set forth in section 109.571 of the Revised Code and is the 1392
criminal history record repository as defined in that section for 1393
purposes of that compact. The superintendent or the 1394
superintendent's designee is the compact officer for purposes of 1395
that compact and shall carry out the responsibilities of the 1396
compact officer specified in that compact. 1397

(B) The superintendent shall prepare and furnish to every 1398
county, multicounty, municipal, municipal-county, or 1399
multicounty-municipal jail or workhouse, community-based 1400
correctional facility, halfway house, alternative residential 1401
facility, or state correctional institution and to every clerk of 1402
a court in this state specified in division (A)(2) of this section 1403
standard forms for reporting the information required under 1404
division (A) of this section. The standard forms that the 1405
superintendent prepares pursuant to this division may be in a 1406
tangible format, in an electronic format, or in both tangible 1407
formats and electronic formats. 1408

(C)(1) The superintendent may operate a center for 1409
electronic, automated, or other data processing for the storage 1410
and retrieval of information, data, and statistics pertaining to 1411
criminals and to children under eighteen years of age who are 1412
adjudicated delinquent children for committing an act that would 1413
be a felony or an offense of violence if committed by an adult, 1414
criminal activity, crime prevention, law enforcement, and criminal 1415
justice, and may establish and operate a statewide communications 1416
network to be known as the Ohio law enforcement gateway to gather 1417
and disseminate information, data, and statistics for the use of 1418
law enforcement agencies and for other uses specified in this 1419
division. The superintendent may gather, store, retrieve, and 1420
disseminate information, data, and statistics that pertain to 1421
children who are under eighteen years of age and that are gathered 1422

pursuant to sections 109.57 to 109.61 of the Revised Code together 1423
with information, data, and statistics that pertain to adults and 1424
that are gathered pursuant to those sections. 1425

(2) The superintendent or the superintendent's designee shall 1426
gather information of the nature described in division (C)(1) of 1427
this section that pertains to the offense and delinquency history 1428
of a person who has been convicted of, pleaded guilty to, or been 1429
adjudicated a delinquent child for committing a sexually oriented 1430
offense or a child-victim oriented offense for inclusion in the 1431
state registry of sex offenders and child-victim offenders 1432
maintained pursuant to division (A)(1) of section 2950.13 of the 1433
Revised Code and in the internet database operated pursuant to 1434
division (A)(13) of that section and for possible inclusion in the 1435
internet database operated pursuant to division (A)(11) of that 1436
section. 1437

(3) In addition to any other authorized use of information, 1438
data, and statistics of the nature described in division (C)(1) of 1439
this section, the superintendent or the superintendent's designee 1440
may provide and exchange the information, data, and statistics 1441
pursuant to the national crime prevention and privacy compact as 1442
described in division (A)(5) of this section. 1443

(4) The attorney general may adopt rules under Chapter 119. 1444
of the Revised Code establishing guidelines for the operation of 1445
and participation in the Ohio law enforcement gateway. The rules 1446
may include criteria for granting and restricting access to 1447
information gathered and disseminated through the Ohio law 1448
enforcement gateway. The attorney general shall permit the state 1449
medical board and board of nursing to access and view, but not 1450
alter, information gathered and disseminated through the Ohio law 1451
enforcement gateway. 1452

The attorney general may appoint a steering committee to 1453
advise the attorney general in the operation of the Ohio law 1454

enforcement gateway that is comprised of persons who are 1455
representatives of the criminal justice agencies in this state 1456
that use the Ohio law enforcement gateway and is chaired by the 1457
superintendent or the superintendent's designee. 1458

(D)(1) The following are not public records under section 1459
149.43 of the Revised Code: 1460

(a) Information and materials furnished to the superintendent 1461
pursuant to division (A) of this section; 1462

(b) Information, data, and statistics gathered or 1463
disseminated through the Ohio law enforcement gateway pursuant to 1464
division (C)(1) of this section; 1465

(c) Information and materials furnished to any board or 1466
person under division (F) or (G) of this section. 1467

(2) The superintendent or the superintendent's designee shall 1468
gather and retain information so furnished under division (A) of 1469
this section that pertains to the offense and delinquency history 1470
of a person who has been convicted of, pleaded guilty to, or been 1471
adjudicated a delinquent child for committing a sexually oriented 1472
offense or a child-victim oriented offense for the purposes 1473
described in division (C)(2) of this section. 1474

(E) The attorney general shall adopt rules, in accordance 1475
with Chapter 119. of the Revised Code, setting forth the procedure 1476
by which a person may receive or release information gathered by 1477
the superintendent pursuant to division (A) of this section. A 1478
reasonable fee may be charged for this service. If a temporary 1479
employment service submits a request for a determination of 1480
whether a person the service plans to refer to an employment 1481
position has been convicted of or pleaded guilty to an offense 1482
listed in division (A)(1), ~~(3)~~, ~~(4)~~, ~~(5)~~, or ~~(6)~~(2) of section 1483
109.572 of the Revised Code or has been convicted of, pleaded 1484
guilty to, or been found eligible for intervention in lieu of 1485

conviction for a disqualifying offense as defined in section 1486
173.394, 3701.881, or 5111.032 of the Revised Code, the request 1487
shall be treated as a single request and only one fee shall be 1488
charged. 1489

(F)(1) As used in division (F)(2) of this section, "head 1490
start agency" means an entity in this state that has been approved 1491
to be an agency for purposes of subchapter II of the "Community 1492
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 1493
as amended. 1494

(2)(a) In addition to or in conjunction with any request that 1495
is required to be made under section 109.572, 2151.86, 3301.32, 1496
3301.541, division (C) of section 3310.58, or section 3319.39, 1497
3319.391, 3327.10, 3701.881, 5104.012, 5104.013, 5123.081, 1498
~~5126.28, 5126.281,~~ or 5153.111 of the Revised Code or that is made 1499
under section 3314.41, 3319.392, 3326.25, or 3328.20 of the 1500
Revised Code, the board of education of any school district; the 1501
director of developmental disabilities; any county board of 1502
developmental disabilities; any ~~entity under contract with a~~ 1503
~~county board of developmental disabilities~~ provider or 1504
subcontractor as defined in section 5123.081 of the Revised Code; 1505
the chief administrator of any chartered nonpublic school; the 1506
chief administrator of a registered private provider that is not 1507
also a chartered nonpublic school; the chief administrator of any 1508
home health agency; the chief administrator of or person operating 1509
any child day-care center, type A family day-care home, or type B 1510
family day-care home licensed or certified under Chapter 5104. of 1511
the Revised Code; the administrator of any type C family day-care 1512
home certified pursuant to Section 1 of Sub. H.B. 62 of the 121st 1513
general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st 1514
general assembly; the chief administrator of any head start 1515
agency; the executive director of a public children services 1516
agency; a private company described in section 3314.41, 3319.392, 1517

3326.25, or 3328.20 of the Revised Code; or an employer described 1518
in division (J)(2) of section 3327.10 of the Revised Code may 1519
request that the superintendent of the bureau investigate and 1520
determine, with respect to any individual who has applied for 1521
employment in any position after October 2, 1989, or any 1522
individual wishing to apply for employment with a board of 1523
education may request, with regard to the individual, whether the 1524
bureau has any information gathered under division (A) of this 1525
section that pertains to that individual. On receipt of the 1526
request, the superintendent shall determine whether that 1527
information exists and, upon request of the person, board, or 1528
entity requesting information, also shall request from the federal 1529
bureau of investigation any criminal records it has pertaining to 1530
that individual. The superintendent or the superintendent's 1531
designee also may request criminal history records from other 1532
states or the federal government pursuant to the national crime 1533
prevention and privacy compact set forth in section 109.571 of the 1534
Revised Code. Within thirty days of the date that the 1535
superintendent receives a request, the superintendent shall send 1536
to the board, entity, or person a report of any information that 1537
the superintendent determines exists, including information 1538
contained in records that have been sealed under section 2953.32 1539
of the Revised Code, and, within thirty days of its receipt, shall 1540
send the board, entity, or person a report of any information 1541
received from the federal bureau of investigation, other than 1542
information the dissemination of which is prohibited by federal 1543
law. 1544

(b) When a board of education or a registered private 1545
provider is required to receive information under this section as 1546
a prerequisite to employment of an individual pursuant to division 1547
(C) of section 3310.58 or section 3319.39 of the Revised Code, it 1548
may accept a certified copy of records that were issued by the 1549
bureau of criminal identification and investigation and that are 1550

presented by an individual applying for employment with the 1551
district in lieu of requesting that information itself. In such a 1552
case, the board shall accept the certified copy issued by the 1553
bureau in order to make a photocopy of it for that individual's 1554
employment application documents and shall return the certified 1555
copy to the individual. In a case of that nature, a district or 1556
provider only shall accept a certified copy of records of that 1557
nature within one year after the date of their issuance by the 1558
bureau. 1559

(c) Notwithstanding division (F)(2)(a) of this section, in 1560
the case of a request under section 3319.39, 3319.391, or 3327.10 1561
of the Revised Code only for criminal records maintained by the 1562
federal bureau of investigation, the superintendent shall not 1563
determine whether any information gathered under division (A) of 1564
this section exists on the person for whom the request is made. 1565

(3) The state board of education may request, with respect to 1566
any individual who has applied for employment after October 2, 1567
1989, in any position with the state board or the department of 1568
education, any information that a school district board of 1569
education is authorized to request under division (F)(2) of this 1570
section, and the superintendent of the bureau shall proceed as if 1571
the request has been received from a school district board of 1572
education under division (F)(2) of this section. 1573

(4) When the superintendent of the bureau receives a request 1574
for information under section 3319.291 of the Revised Code, the 1575
superintendent shall proceed as if the request has been received 1576
from a school district board of education and shall comply with 1577
divisions (F)(2)(a) and (c) of this section. 1578

(5) When a recipient of a classroom reading improvement grant 1579
paid under section 3301.86 of the Revised Code requests, with 1580
respect to any individual who applies to participate in providing 1581
any program or service funded in whole or in part by the grant, 1582

the information that a school district board of education is 1583
authorized to request under division (F)(2)(a) of this section, 1584
the superintendent of the bureau shall proceed as if the request 1585
has been received from a school district board of education under 1586
division (F)(2)(a) of this section. 1587

(G) In addition to or in conjunction with any request that is 1588
required to be made under section 3701.881, 3712.09, 3721.121, or 1589
5119.693, ~~or 5119.85~~ of the Revised Code with respect to an 1590
individual who has applied for employment in a position that 1591
involves providing direct care to an older adult or adult 1592
resident, the chief administrator of a home health agency, hospice 1593
care program, home licensed under Chapter 3721. of the Revised 1594
Code, adult day-care program operated pursuant to rules adopted 1595
under section 3721.04 of the Revised Code, or adult foster home, 1596
~~or adult care facility~~ may request that the superintendent of the 1597
bureau investigate and determine, with respect to any individual 1598
who has applied after January 27, 1997, for employment in a 1599
position that does not involve providing direct care to an older 1600
adult or adult resident, whether the bureau has any information 1601
gathered under division (A) of this section that pertains to that 1602
individual. 1603

In addition to or in conjunction with any request that is 1604
required to be made under section 173.27 of the Revised Code with 1605
respect to an individual who has applied for employment in a 1606
position that involves providing ombudsperson services to 1607
residents of long-term care facilities or recipients of 1608
community-based long-term care services, the state long-term care 1609
ombudsperson, ombudsperson's designee, or director of health may 1610
request that the superintendent investigate and determine, with 1611
respect to any individual who has applied for employment in a 1612
position that does not involve providing such ombudsperson 1613
services, whether the bureau has any information gathered under 1614

division (A) of this section that pertains to that applicant. 1615

In addition to or in conjunction with any request that is 1616
required to be made under section 173.394 of the Revised Code with 1617
respect to an individual who has applied for employment in a 1618
position that involves providing direct care to an individual, the 1619
chief administrator of a community-based long-term care agency may 1620
request that the superintendent investigate and determine, with 1621
respect to any individual who has applied for employment in a 1622
position that does not involve providing direct care, whether the 1623
bureau has any information gathered under division (A) of this 1624
section that pertains to that applicant. 1625

On receipt of a request under this division, the 1626
superintendent shall determine whether that information exists 1627
and, on request of the individual requesting information, shall 1628
also request from the federal bureau of investigation any criminal 1629
records it has pertaining to the applicant. The superintendent or 1630
the superintendent's designee also may request criminal history 1631
records from other states or the federal government pursuant to 1632
the national crime prevention and privacy compact set forth in 1633
section 109.571 of the Revised Code. Within thirty days of the 1634
date a request is received, the superintendent shall send to the 1635
requester a report of any information determined to exist, 1636
including information contained in records that have been sealed 1637
under section 2953.32 of the Revised Code, and, within thirty days 1638
of its receipt, shall send the requester a report of any 1639
information received from the federal bureau of investigation, 1640
other than information the dissemination of which is prohibited by 1641
federal law. 1642

(H) Information obtained by a government entity or person 1643
under this section is confidential and shall not be released or 1644
disseminated. 1645

(I) The superintendent may charge a reasonable fee for 1646

providing information or criminal records under division (F)(2) or 1647
(G) of this section. 1648

(J) As used in this section: 1649

(1) "Sexually oriented offense" and "child-victim oriented 1650
offense" have the same meanings as in section 2950.01 of the 1651
Revised Code. 1652

(2) "Registered private provider" means a nonpublic school or 1653
entity registered with the superintendent of public instruction 1654
under section 3310.41 of the Revised Code to participate in the 1655
autism scholarship program or section 3310.58 of the Revised Code 1656
to participate in the Jon Peterson special needs scholarship 1657
program. 1658

Sec. 109.572. (A)(1) Upon receipt of a request pursuant to 1659
section 121.08, 3301.32, 3301.541, or 3319.39 of the Revised Code, 1660
a completed form prescribed pursuant to division (C)(1) of this 1661
section, and a set of fingerprint impressions obtained in the 1662
manner described in division (C)(2) of this section, the 1663
superintendent of the bureau of criminal identification and 1664
investigation shall conduct a criminal records check in the manner 1665
described in division (B) of this section to determine whether any 1666
information exists that indicates that the person who is the 1667
subject of the request previously has been convicted of or pleaded 1668
guilty to any of the following: 1669

(a) A violation of section 2903.01, 2903.02, 2903.03, 1670
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1671
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 1672
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 1673
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 1674
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 1675
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 1676
2925.06, or 3716.11 of the Revised Code, felonious sexual 1677

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

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

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

~~(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34,~~

~~2903.341, 2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03,~~ 1710
~~2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12,~~ 1711
~~2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321,~~ 1712
~~2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12,~~ 1713
~~2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02,~~ 1714
~~2925.03, or 3716.11 of the Revised Code;~~ 1715

~~(b) An existing or former municipal ordinance or law of this~~ 1716
~~state, any other state, or the United States that is substantially~~ 1717
~~equivalent to any of the offenses listed in division (A)(2)(a) of~~ 1718
~~this section.~~ 1719

~~(3) On receipt of a request pursuant to section 173.27,~~ 1720
~~173.394, 3712.09, 3721.121, or 5119.693, or 5119.85 of the Revised~~ 1721
Code, a completed form prescribed pursuant to division (C)(1) of 1722
this section, and a set of fingerprint impressions obtained in the 1723
manner described in division (C)(2) of this section, the 1724
superintendent of the bureau of criminal identification and 1725
investigation shall conduct a criminal records check with respect 1726
to any person who has applied for employment in a position for 1727
which a criminal records check is required by those sections. The 1728
superintendent shall conduct the criminal records check in the 1729
manner described in division (B) of this section to determine 1730
whether any information exists that indicates that the person who 1731
is the subject of the request previously has been convicted of or 1732
pleaded guilty to any of the following: 1733

(a) A violation of section 2903.01, 2903.02, 2903.03, 1734
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1735
2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 1736
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 1737
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 1738
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 1739
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 1740
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 1741

2925.22, 2925.23, or 3716.11 of the Revised Code; 1742

(b) An existing or former law of this state, any other state, 1743
or the United States that is substantially equivalent to any of 1744
the offenses listed in division (A)(3)(2)(a) of this section. 1745

~~(4) On receipt of a request pursuant to section 3701.881 of 1746
the Revised Code with respect to an applicant for employment with 1747
a home health agency as a person responsible for the care, 1748
custody, or control of a child, a completed form prescribed 1749
pursuant to division (C)(1) of this section, and a set of 1750
fingerprint impressions obtained in the manner described in 1751
division (C)(2) of this section, the superintendent of the bureau 1752
of criminal identification and investigation shall conduct a 1753
criminal records check. The superintendent shall conduct the 1754
criminal records check in the manner described in division (B) of 1755
this section to determine whether any information exists that 1756
indicates that the person who is the subject of the request 1757
previously has been convicted of or pleaded guilty to any of the 1758
following: 1759~~

~~(a) A violation of section 2903.01, 2903.02, 2903.03, 1760
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1761
2905.01, 2905.02, 2905.04, 2905.05, 2907.02, 2907.03, 2907.04, 1762
2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.21, 1763
2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 1764
2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 1765
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 1766
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code or a 1767
violation of section 2925.11 of the Revised Code that is not a 1768
minor drug possession offense; 1769~~

~~(b) An existing or former law of this state, any other state, 1770
or the United States that is substantially equivalent to any of 1771
the offenses listed in division (A)(4)(a) of this section. 1772~~

~~(5)(3)~~ On receipt of a request pursuant to section 173.27, 1773
173.394, 3701.881, 5111.032, 5111.033, ~~or~~ 5111.034, 5123.081, or 1774
5123.169 of the Revised Code, a completed form prescribed pursuant 1775
to division (C)(1) of this section, and a set of fingerprint 1776
impressions obtained in the manner described in division (C)(2) of 1777
this section, the superintendent of the bureau of criminal 1778
identification and investigation shall conduct a criminal records 1779
check of the person for whom the request is made. The 1780
superintendent shall conduct the criminal records check in the 1781
manner described in division (B) of this section to determine 1782
whether any information exists that indicates that the person who 1783
is the subject of the request previously has been convicted of, 1784
has pleaded guilty to, or has been found eligible for intervention 1785
in lieu of conviction for ~~any of the following, regardless of the~~ 1786
~~date of the conviction, the date of entry of the guilty plea, or~~ 1787
~~the date the person was found eligible for intervention in lieu of~~ 1788
~~conviction.~~ 1789

~~(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03,~~ 1790
~~2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16,~~ 1791
~~2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05,~~ 1792
~~2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06,~~ 1793
~~2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24,~~ 1794
~~2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02,~~ 1795
~~2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01,~~ 1796
~~2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04,~~ 1797
~~2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41,~~ 1798
~~2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47,~~ 1799
~~2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11,~~ 1800
~~2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03,~~ 1801
~~2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02,~~ 1802
~~2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03,~~ 1803
~~2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22,~~ 1804
~~2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual~~ 1805

~~penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;~~

~~(b) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)(5)(a) of this section a disqualifying offense as defined in the section of the Revised Code under which the request is made.~~

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

~~(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36,~~

~~2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13,
2925.22, 2925.23, or 3716.11 of the Revised Code;~~ 1838
1839

~~(b) An existing or former law of this state, any other state,
or the United States that is substantially equivalent to any of
the offenses listed in division (A)(6)(a) of this section.~~ 1840
1841
1842

~~(7)(4)~~ When conducting a criminal records check upon a 1843
request pursuant to section 3319.39 of the Revised Code for an 1844
applicant who is a teacher, in addition to the determination made 1845
under division (A)(1) of this section, the superintendent shall 1846
determine whether any information exists that indicates that the 1847
person who is the subject of the request previously has been 1848
convicted of or pleaded guilty to any offense specified in section 1849
3319.31 of the Revised Code. 1850

~~(8)(5)~~ On receipt of a request pursuant to section 2151.86 of 1851
the Revised Code, a completed form prescribed pursuant to division 1852
(C)(1) of this section, and a set of fingerprint impressions 1853
obtained in the manner described in division (C)(2) of this 1854
section, the superintendent of the bureau of criminal 1855
identification and investigation shall conduct a criminal records 1856
check in the manner described in division (B) of this section to 1857
determine whether any information exists that indicates that the 1858
person who is the subject of the request previously has been 1859
convicted of or pleaded guilty to any of the following: 1860

(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03, 1861
2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 1862
2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 1863
2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 1864
2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 1865
2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 1866
2911.01, 2911.02, 2911.11, 2911.12, 2913.49, 2917.01, 2917.02, 1867
2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 1868
2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2927.12, or 3716.11 1869

of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, two or more OVI or OVUAC violations committed within the three years immediately preceding the submission of the application or petition that is the basis of the request, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (A)~~(8)~~(5)(a) of this section.

~~(9)~~(6) Upon receipt of a request pursuant to section 5104.012 or 5104.013 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2913.02, 2913.03, 2913.04, 2913.041, 2913.05, 2913.06, 2913.11, 2913.21, 2913.31, 2913.32,

2913.33, 2913.34, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 1902
2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2919.12, 1903
2919.22, 2919.24, 2919.25, 2921.11, 2921.13, 2923.01, 2923.12, 1904
2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 1905
3716.11 of the Revised Code, felonious sexual penetration in 1906
violation of former section 2907.12 of the Revised Code, a 1907
violation of section 2905.04 of the Revised Code as it existed 1908
prior to July 1, 1996, a violation of section 2919.23 of the 1909
Revised Code that would have been a violation of section 2905.04 1910
of the Revised Code as it existed prior to July 1, 1996, had the 1911
violation been committed prior to that date, a violation of 1912
section 2925.11 of the Revised Code that is not a minor drug 1913
possession offense, a violation of section 2923.02 or 2923.03 of 1914
the Revised Code that relates to a crime specified in this 1915
division, or a second violation of section 4511.19 of the Revised 1916
Code within five years of the date of application for licensure or 1917
certification. 1918

(b) A violation of an existing or former law of this state, 1919
any other state, or the United States that is substantially 1920
equivalent to any of the offenses or violations described in 1921
division (A)~~(9)~~(6)(a) of this section. 1922

~~(10)~~(7) Upon receipt of a request pursuant to section 1923
5153.111 of the Revised Code, a completed form prescribed pursuant 1924
to division (C)(1) of this section, and a set of fingerprint 1925
impressions obtained in the manner described in division (C)(2) of 1926
this section, the superintendent of the bureau of criminal 1927
identification and investigation shall conduct a criminal records 1928
check in the manner described in division (B) of this section to 1929
determine whether any information exists that indicates that the 1930
person who is the subject of the request previously has been 1931
convicted of or pleaded guilty to any of the following: 1932

(a) A violation of section 2903.01, 2903.02, 2903.03, 1933

2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1934
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 1935
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 1936
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 1937
2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 1938
2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 1939
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, 1940
felonious sexual penetration in violation of former section 1941
2907.12 of the Revised Code, a violation of section 2905.04 of the 1942
Revised Code as it existed prior to July 1, 1996, a violation of 1943
section 2919.23 of the Revised Code that would have been a 1944
violation of section 2905.04 of the Revised Code as it existed 1945
prior to July 1, 1996, had the violation been committed prior to 1946
that date, or a violation of section 2925.11 of the Revised Code 1947
that is not a minor drug possession offense; 1948

(b) A violation of an existing or former law of this state, 1949
any other state, or the United States that is substantially 1950
equivalent to any of the offenses listed in division (A)~~(10)~~(7)(a) 1951
of this section. 1952

~~(11)~~(8) On receipt of a request for a criminal records check 1953
from an individual pursuant to section 4749.03 or 4749.06 of the 1954
Revised Code, accompanied by a completed copy of the form 1955
prescribed in division (C)(1) of this section and a set of 1956
fingerprint impressions obtained in a manner described in division 1957
(C)(2) of this section, the superintendent of the bureau of 1958
criminal identification and investigation shall conduct a criminal 1959
records check in the manner described in division (B) of this 1960
section to determine whether any information exists indicating 1961
that the person who is the subject of the request has been 1962
convicted of or pleaded guilty to a felony in this state or in any 1963
other state. If the individual indicates that a firearm will be 1964
carried in the course of business, the superintendent shall 1965

require information from the federal bureau of investigation as 1966
described in division (B)(2) of this section. The superintendent 1967
shall report the findings of the criminal records check and any 1968
information the federal bureau of investigation provides to the 1969
director of public safety. 1970

~~(12)~~(9) On receipt of a request pursuant to section 1321.37, 1971
1321.53, 1321.531, 1322.03, 1322.031, or 4763.05 of the Revised 1972
Code, a completed form prescribed pursuant to division (C)(1) of 1973
this section, and a set of fingerprint impressions obtained in the 1974
manner described in division (C)(2) of this section, the 1975
superintendent of the bureau of criminal identification and 1976
investigation shall conduct a criminal records check with respect 1977
to any person who has applied for a license, permit, or 1978
certification from the department of commerce or a division in the 1979
department. The superintendent shall conduct the criminal records 1980
check in the manner described in division (B) of this section to 1981
determine whether any information exists that indicates that the 1982
person who is the subject of the request previously has been 1983
convicted of or pleaded guilty to any of the following: a 1984
violation of section 2913.02, 2913.11, 2913.31, 2913.51, or 1985
2925.03 of the Revised Code; any other criminal offense involving 1986
theft, receiving stolen property, embezzlement, forgery, fraud, 1987
passing bad checks, money laundering, or drug trafficking, or any 1988
criminal offense involving money or securities, as set forth in 1989
Chapters 2909., 2911., 2913., 2915., 2921., 2923., and 2925. of 1990
the Revised Code; or any existing or former law of this state, any 1991
other state, or the United States that is substantially equivalent 1992
to those offenses. 1993

~~(13)~~(10) On receipt of a request for a criminal records check 1994
from the treasurer of state under section 113.041 of the Revised 1995
Code or from an individual under section 4701.08, 4715.101, 1996
4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 1997

4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 1998
4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 1999
4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 2000
4762.031, 4762.06, or 4779.091 of the Revised Code, accompanied by 2001
a completed form prescribed under division (C)(1) of this section 2002
and a set of fingerprint impressions obtained in the manner 2003
described in division (C)(2) of this section, the superintendent 2004
of the bureau of criminal identification and investigation shall 2005
conduct a criminal records check in the manner described in 2006
division (B) of this section to determine whether any information 2007
exists that indicates that the person who is the subject of the 2008
request has been convicted of or pleaded guilty to any criminal 2009
offense in this state or any other state. The superintendent shall 2010
send the results of a check requested under section 113.041 of the 2011
Revised Code to the treasurer of state and shall send the results 2012
of a check requested under any of the other listed sections to the 2013
licensing board specified by the individual in the request. 2014

~~(14)~~(11) On receipt of a request pursuant to section 1121.23, 2015
1155.03, 1163.05, 1315.141, 1733.47, or 1761.26 of the Revised 2016
Code, a completed form prescribed pursuant to division (C)(1) of 2017
this section, and a set of fingerprint impressions obtained in the 2018
manner described in division (C)(2) of this section, the 2019
superintendent of the bureau of criminal identification and 2020
investigation shall conduct a criminal records check in the manner 2021
described in division (B) of this section to determine whether any 2022
information exists that indicates that the person who is the 2023
subject of the request previously has been convicted of or pleaded 2024
guilty to any criminal offense under any existing or former law of 2025
this state, any other state, or the United States. 2026

~~(15)~~(12) On receipt of a request for a criminal records check 2027
from an appointing or licensing authority under section 3772.07 of 2028
the Revised Code, a completed form prescribed under division 2029

(C)(1) of this section, and a set of fingerprint impressions 2030
obtained in the manner prescribed in division (C)(2) of this 2031
section, the superintendent of the bureau of criminal 2032
identification and investigation shall conduct a criminal records 2033
check in the manner described in division (B) of this section to 2034
determine whether any information exists that indicates that the 2035
person who is the subject of the request previously has been 2036
convicted of or pleaded guilty or no contest to any offense under 2037
any existing or former law of this state, any other state, or the 2038
United States that is a disqualifying offense as defined in 2039
section 3772.07 of the Revised Code or substantially equivalent to 2040
such an offense. 2041

~~(16)~~(13) Not later than thirty days after the date the 2042
superintendent receives a request of a type described in division 2043
(A)(1), (2), (3), (4), (5), (6), (7), (8), (9), ~~(10)~~, (11), (12), 2044
~~(14)~~, or ~~(15)~~(13) of this section, the completed form, and the 2045
fingerprint impressions, the superintendent shall send the results 2046
of the criminal records check to the person, board, or entity that 2047
made the request any information, other than. The superintendent 2048
shall exclude from the results any information the dissemination 2049
of which is prohibited by federal law, ~~the superintendent~~ 2050
~~determines exists with respect to the person who is the subject of~~ 2051
~~the request that indicates that the person previously has been~~ 2052
~~convicted of or pleaded guilty to any offense listed or described~~ 2053
~~in division (A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10),~~ 2054
~~(11), (12), (14), or (15) of this section, as appropriate.~~ The 2055
superintendent shall send the person, board, or entity that made 2056
the request a copy of the list of offenses ~~specified in division~~ 2057
~~(A)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12),~~ 2058
~~(14), or (15) of this section, as appropriate~~ for which the 2059
criminal records check was conducted. ~~If the request was made~~ 2060
~~under section 3701.881 of the Revised Code with regard to an~~ 2061
~~applicant who may be both responsible for the care, custody, or~~ 2062

~~control of a child and involved in providing direct care to an 2063
elder adult, the superintendent shall provide a list of the 2064
offenses specified in divisions (A)(4) and (6) of this section. 2065~~

Not later than thirty days after the superintendent receives 2066
a request for a criminal records check pursuant to section 113.041 2067
of the Revised Code, the completed form, and the fingerprint 2068
impressions, the superintendent shall send the treasurer of state 2069
any information, other than information the dissemination of which 2070
is prohibited by federal law, the superintendent determines exist 2071
with respect to the person who is the subject of the request that 2072
indicates that the person previously has been convicted of or 2073
pleaded guilty to any criminal offense in this state or any other 2074
state. 2075

(B) The superintendent shall conduct any criminal records 2076
check ~~requested under section 113.041, 121.08, 173.27, 173.394, 2077
1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531, 1322.03, 2078
1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 2079
3701.881, 3712.09, 3721.121, 3772.07, 4701.08, 4715.101, 4717.061, 2080
4725.121, 4725.501, 4729.071, 4730.101, 4730.14, 4730.28, 2081
4731.081, 4731.15, 4731.171, 4731.222, 4731.281, 4731.296, 2082
4731.531, 4732.091, 4734.202, 4740.061, 4741.10, 4749.03, 4749.06, 2083
4755.70, 4757.101, 4759.061, 4760.032, 4760.06, 4761.051, 2084
4762.031, 4762.06, 4763.05, 4779.091, 5104.012, 5104.013, 2085
5111.032, 5111.033, 5111.034, 5119.693, 5119.85, 5123.081, 2086
5126.28, 5126.281, or 5153.111 of the Revised Code to be conducted 2087
under this section as follows: 2088~~

(1) The superintendent shall review or cause to be reviewed 2089
any relevant information gathered and compiled by the bureau under 2090
division (A) of section 109.57 of the Revised Code that relates to 2091
the person who is the subject of the ~~request~~ criminal records 2092
check, including, if the criminal records check was requested 2093
under section 113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 2094

1163.05, 1315.141, 1321.37, 1321.53, 1321.531, 1322.03, 1322.031, 2095
1733.47, 1761.26, 2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 2096
3712.09, 3721.121, 3772.07, 4749.03, 4749.06, 4763.05, 5104.012, 2097
5104.013, 5111.032, 5111.033, 5111.034, 5119.693, ~~5119.85~~, 2098
5123.081, ~~5126.28~~, ~~5126.281~~, 5123.169, or 5153.111 of the Revised 2099
Code, any relevant information contained in records that have been 2100
sealed under section 2953.32 of the Revised Code; 2101

(2) If the request received by the superintendent asks for 2102
information from the federal bureau of investigation, the 2103
superintendent shall request from the federal bureau of 2104
investigation any information it has with respect to the person 2105
who is the subject of the ~~request~~ criminal records check, 2106
including fingerprint-based checks of national crime information 2107
databases as described in 42 U.S.C. 671 if the request is made 2108
pursuant to section 2151.86, 5104.012, or 5104.013 of the Revised 2109
Code or if any other Revised Code section requires 2110
fingerprint-based checks of that nature, and shall review or cause 2111
to be reviewed any information the superintendent receives from 2112
that bureau. If a request under section 3319.39 of the Revised 2113
Code asks only for information from the federal bureau of 2114
investigation, the superintendent shall not conduct the review 2115
prescribed by division (B)(1) of this section. 2116

(3) The superintendent or the superintendent's designee may 2117
request criminal history records from other states or the federal 2118
government pursuant to the national crime prevention and privacy 2119
compact set forth in section 109.571 of the Revised Code. 2120

(C)(1) The superintendent shall prescribe a form to obtain 2121
the information necessary to conduct a criminal records check from 2122
any person for whom a criminal records check is ~~requested under~~ 2123
~~section 113.041 of the Revised Code or required by section 121.08,~~ 2124
~~173.27, 173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53,~~ 2125
~~1321.531, 1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32,~~ 2126

~~3301.541, 3319.39, 3701.881, 3712.09, 3721.121, 3772.07, 4701.08,~~ 2127
~~4715.101, 4717.061, 4725.121, 4725.501, 4729.071, 4730.101,~~ 2128
~~4730.14, 4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281,~~ 2129
~~4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10,~~ 2130
~~4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06,~~ 2131
~~4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012,~~ 2132
~~5104.013, 5111.032, 5111.033, 5111.034, 5119.693, 5119.85,~~ 2133
~~5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code to be~~ 2134
conducted under this section. The form that the superintendent 2135
prescribes pursuant to this division may be in a tangible format, 2136
in an electronic format, or in both tangible and electronic 2137
formats. 2138

(2) The superintendent shall prescribe standard impression 2139
sheets to obtain the fingerprint impressions of any person for 2140
whom a criminal records check is ~~requested under section 113.041~~ 2141
~~of the Revised Code or required by section 121.08, 173.27,~~ 2142
~~173.394, 1121.23, 1155.03, 1163.05, 1315.141, 1321.53, 1321.531,~~ 2143
~~1322.03, 1322.031, 1733.47, 1761.26, 2151.86, 3301.32, 3301.541,~~ 2144
~~3319.39, 3701.881, 3712.09, 3721.121, 3772.07, 4701.08, 4715.101,~~ 2145
~~4717.061, 4725.121, 4725.501, 4729.071, 4730.101, 4730.14,~~ 2146
~~4730.28, 4731.081, 4731.15, 4731.171, 4731.222, 4731.281,~~ 2147
~~4731.296, 4731.531, 4732.091, 4734.202, 4740.061, 4741.10,~~ 2148
~~4749.03, 4749.06, 4755.70, 4757.101, 4759.061, 4760.032, 4760.06,~~ 2149
~~4761.051, 4762.031, 4762.06, 4763.05, 4779.091, 5104.012,~~ 2150
~~5104.013, 5111.032, 5111.033, 5111.034, 5119.693, 5119.85,~~ 2151
~~5123.081, 5126.28, 5126.281, or 5153.111 of the Revised Code to be~~ 2152
conducted under this section. Any person for whom a records check 2153
is ~~requested under or required by any of those sections to be~~ 2154
conducted under this section shall obtain the fingerprint 2155
impressions at a county sheriff's office, municipal police 2156
department, or any other entity with the ability to make 2157
fingerprint impressions on the standard impression sheets 2158
prescribed by the superintendent. The office, department, or 2159

entity may charge the person a reasonable fee for making the 2160
impressions. The standard impression sheets the superintendent 2161
prescribes pursuant to this division may be in a tangible format, 2162
in an electronic format, or in both tangible and electronic 2163
formats. 2164

(3) Subject to division (D) of this section, the 2165
superintendent shall prescribe and charge a reasonable fee for 2166
providing a criminal records check ~~requested under section~~ 2167
~~113.041, 121.08, 173.27, 173.394, 1121.23, 1155.03, 1163.05,~~ 2168
~~1315.141, 1321.53, 1321.531, 1322.03, 1322.031, 1733.47, 1761.26,~~ 2169
~~2151.86, 3301.32, 3301.541, 3319.39, 3701.881, 3712.09, 3721.121,~~ 2170
~~3772.07, 4701.08, 4715.101, 4717.061, 4725.121, 4725.501,~~ 2171
~~4729.071, 4730.101, 4730.14, 4730.28, 4731.081, 4731.15, 4731.171,~~ 2172
~~4731.222, 4731.281, 4731.296, 4731.531, 4732.091, 4734.202,~~ 2173
~~4740.061, 4741.10, 4749.03, 4749.06, 4755.70, 4757.101, 4759.061,~~ 2174
~~4760.032, 4760.06, 4761.051, 4762.031, 4762.06, 4763.05, 4779.091,~~ 2175
~~5104.012, 5104.013, 5111.032, 5111.033, 5111.034, 5119.693,~~ 2176
~~5119.85, 5123.081, 5126.28, 5126.281, or 5153.111 of the Revised~~ 2177
~~Code under this section.~~ The person ~~making a~~ requesting the 2178
criminal records ~~request under any of those sections~~ check shall 2179
pay the fee prescribed pursuant to this division. ~~A person making~~ 2180
~~a request under section 3701.881 of the Revised Code for a~~ 2181
~~criminal records check for an applicant who may be both~~ 2182
~~responsible for the care, custody, or control of a child and~~ 2183
~~involved in providing direct care to an older adult shall pay one~~ 2184
~~fee for the request.~~ In the case of a request under section 2185
1121.23, 1155.03, 1163.05, 1315.141, 1733.47, 1761.26, or 5111.032 2186
of the Revised Code, the fee shall be paid in the manner specified 2187
in that section. 2188

(4) The superintendent of the bureau of criminal 2189
identification and investigation may prescribe methods of 2190
forwarding fingerprint impressions and information necessary to 2191

conduct a criminal records check, which methods shall include, but 2192
not be limited to, an electronic method. 2193

(D) ~~A determination whether any information exists that 2194
indicates that a person previously has been convicted of or 2195
pleaded guilty to any offense listed or described in division 2196
(A)(1)(a) or (b), (A)(2)(a) or (b), (A)(3)(a) or (b), (A)(4)(a) or 2197
(b), (A)(5)(a) or (b), (A)(6)(a) or (b), (A)(7), (A)(8)(a) or (b), 2198
(A)(9)(a) or (b), (A)(10)(a) or (b), (A)(12), (A)(14), or (A)(15) 2199
of this section, or that indicates that a person previously has 2200
been convicted of or pleaded guilty to any criminal offense in 2201
this state or any other state regarding a criminal records check 2202
of a type described in division (A)(13) of this section, and that 2203
is made by the superintendent with respect to information 2204
considered in The results of a criminal records check in 2205
accordance with conducted under this section is, other than a 2206
criminal records check specified in division (A)(8) of this 2207
section, are valid for the person who is the subject of the 2208
criminal records check for a period of one year from the date upon 2209
which the superintendent ~~makes the determination~~ completes the 2210
criminal records check. ~~During the~~ If during that period in which 2211
the determination in regard to a person is valid, if the 2212
superintendent receives another request under this section is made 2213
for a criminal records check to be conducted under this section 2214
for that person, the superintendent shall provide the ~~information 2215
that is the basis for the superintendent's initial determination 2216
results from the previous criminal records check of the person at 2217
a lower fee than the fee prescribed for the initial criminal 2218
records check.~~ 2219~~

(E) When the superintendent receives a request for 2220
information from a registered private provider, the superintendent 2221
shall proceed as if the request was received from a school 2222
district board of education under section 3319.39 of the Revised 2223

Code. The superintendent shall apply division (A)~~(7)~~(4) of this 2224
section to any such request for an applicant who is a teacher. 2225

(F) As used in this section: 2226

(1) "Criminal records check" means any criminal records check 2227
conducted by the superintendent of the bureau of criminal 2228
identification and investigation in accordance with division (B) 2229
of this section. 2230

(2) "Minor drug possession offense" has the same meaning as 2231
in section 2925.01 of the Revised Code. 2232

~~(3) "Older adult" means a person age sixty or older.~~ 2233

~~(4)~~ "OVI or OVUAC violation" means a violation of section 2234
4511.19 of the Revised Code or a violation of an existing or 2235
former law of this state, any other state, or the United States 2236
that is substantially equivalent to section 4511.19 of the Revised 2237
Code. 2238

~~(5)~~(4) "Registered private provider" means a nonpublic school 2239
or entity registered with the superintendent of public instruction 2240
under section 3310.41 of the Revised Code to participate in the 2241
autism scholarship program or section 3310.58 of the Revised Code 2242
to participate in the Jon Peterson special needs scholarship 2243
program. 2244

Sec. 120.08. There is hereby created in the state treasury 2245
the indigent defense support fund, consisting of money paid into 2246
the fund pursuant to sections 4507.45, 4509.101, 4510.22, and 2247
4511.19 of the Revised Code and pursuant to sections 2937.22, 2248
2949.091, and 2949.094 of the Revised Code out of the additional 2249
court costs imposed under those sections. The state public 2250
defender shall use at least ninety per cent of the money in the 2251
fund for the purpose of reimbursing county governments for 2252
expenses incurred pursuant to sections 120.18, 120.28, and 120.33 2253

of the Revised Code. Disbursements from the fund to county 2254
governments shall be made at least once per year and shall be 2255
allocated proportionately so that each county receives an equal 2256
percentage of its total cost for operating its county public 2257
defender system, its joint county public defender system, its 2258
county appointed counsel system, or its system operated under 2259
division (C)(7) of section 120.04 of the Revised Code and division 2260
(B) of section 120.33 of the Revised Code. The state public 2261
defender may use not more than ten per cent of the money in the 2262
fund for the purposes of appointing assistant state public 2263
defenders or for providing other personnel, equipment, and 2264
facilities necessary for the operation of the state public 2265
defender office. 2266

Sec. 121.04. Offices are created within the several 2267
departments as follows: 2268

In the department of commerce: 2269

Commissioner of securities; 2270

Superintendent of real estate and professional 2271
licensing;

Superintendent of financial institutions; 2272

State fire marshal; 2273

Superintendent of ~~labor~~ industrial compliance; 2274

Superintendent of liquor control; 2275

Superintendent of unclaimed funds. 2276

In the department of administrative services: 2277

~~State architect and engineer;~~ 2278

Equal employment opportunity coordinator. 2279

In the department of agriculture: 2280

Chiefs of divisions as follows: 2281

Administration; 2282

Animal health;	2283
Livestock environmental permitting;	2284
Dairy;	2285
Food safety;	2286
Plant health;	2287
Markets;	2288
Meat inspection;	2289
Consumer protection laboratory;	2290
Amusement ride safety;	2291
Enforcement;	2292
Weights and measures.	2293
In the department of natural resources:	2294
Chiefs of divisions as follows:	2295
Mineral resources management;	2296
Oil and gas resources management;	2297
Forestry;	2298
Natural areas and preserves;	2299
Wildlife;	2300
Geological survey;	2301
Parks and recreation;	2302
Watercraft;	2303
Recycling and litter prevention;	2304
Soil and water resources;	2305
Engineering.	2306
In the department of insurance:	2307
Deputy superintendent of insurance;	2308
Assistant superintendent of insurance, technical;	2309
Assistant superintendent of insurance, administrative;	2310
Assistant superintendent of insurance, research.	2311
Sec. 121.08. (A) There is hereby created in the department of	2312
commerce the position of deputy director of administration. This	2313

officer shall be appointed by the director of commerce, serve 2314
under the director's direction, supervision, and control, perform 2315
the duties the director prescribes, and hold office during the 2316
director's pleasure. The director of commerce may designate an 2317
assistant director of commerce to serve as the deputy director of 2318
administration. The deputy director of administration shall 2319
perform the duties prescribed by the director of commerce in 2320
supervising the activities of the division of administration of 2321
the department of commerce. 2322

(B) Except as provided in section 121.07 of the Revised Code, 2323
the department of commerce shall have all powers and perform all 2324
duties vested in the deputy director of administration, the state 2325
fire marshal, the superintendent of financial institutions, the 2326
superintendent of real estate and professional licensing, the 2327
superintendent of liquor control, the superintendent of ~~labor~~ 2328
industrial compliance, the superintendent of unclaimed funds, and 2329
the commissioner of securities, and shall have all powers and 2330
perform all duties vested by law in all officers, deputies, and 2331
employees of those offices. Except as provided in section 121.07 2332
of the Revised Code, wherever powers are conferred or duties 2333
imposed upon any of those officers, the powers and duties shall be 2334
construed as vested in the department of commerce. 2335

(C)(1) There is hereby created in the department of commerce 2336
a division of financial institutions, which shall have all powers 2337
and perform all duties vested by law in the superintendent of 2338
financial institutions. Wherever powers are conferred or duties 2339
imposed upon the superintendent of financial institutions, those 2340
powers and duties shall be construed as vested in the division of 2341
financial institutions. The division of financial institutions 2342
shall be administered by the superintendent of financial 2343
institutions. 2344

(2) All provisions of law governing the superintendent of 2345

financial institutions shall apply to and govern the 2346
superintendent of financial institutions provided for in this 2347
section; all authority vested by law in the superintendent of 2348
financial institutions with respect to the management of the 2349
division of financial institutions shall be construed as vested in 2350
the superintendent of financial institutions created by this 2351
section with respect to the division of financial institutions 2352
provided for in this section; and all rights, privileges, and 2353
emoluments conferred by law upon the superintendent of financial 2354
institutions shall be construed as conferred upon the 2355
superintendent of financial institutions as head of the division 2356
of financial institutions. The director of commerce shall not 2357
transfer from the division of financial institutions any of the 2358
functions specified in division (C)(2) of this section. 2359

(D) There is hereby created in the department of commerce a 2360
division of liquor control, which shall have all powers and 2361
perform all duties vested by law in the superintendent of liquor 2362
control. Wherever powers are conferred or duties are imposed upon 2363
the superintendent of liquor control, those powers and duties 2364
shall be construed as vested in the division of liquor control. 2365
The division of liquor control shall be administered by the 2366
superintendent of liquor control. 2367

(E) The director of commerce shall not be interested, 2368
directly or indirectly, in any firm or corporation which is a 2369
dealer in securities as defined in sections 1707.01 and 1707.14 of 2370
the Revised Code, or in any firm or corporation licensed under 2371
sections 1321.01 to 1321.19 of the Revised Code. 2372

(F) The director of commerce shall not have any official 2373
connection with a savings and loan association, a savings bank, a 2374
bank, a bank holding company, a savings and loan association 2375
holding company, a consumer finance company, or a credit union 2376
that is under the supervision of the division of financial 2377

institutions, or a subsidiary of any of the preceding entities, or 2378
be interested in the business thereof. 2379

(G) There is hereby created in the state treasury the 2380
division of administration fund. The fund shall receive 2381
assessments on the operating funds of the department of commerce 2382
in accordance with procedures prescribed by the director of 2383
commerce and approved by the director of budget and management. 2384
All operating expenses of the division of administration shall be 2385
paid from the division of administration fund. 2386

(H) There is hereby created in the department of commerce a 2387
division of real estate and professional licensing, which shall be 2388
under the control and supervision of the director of commerce. The 2389
division of real estate and professional licensing shall be 2390
administered by the superintendent of real estate and professional 2391
licensing. The superintendent of real estate and professional 2392
licensing shall exercise the powers and perform the functions and 2393
duties delegated to the superintendent under Chapters 4735., 2394
4763., and 4767. of the Revised Code. 2395

(I) There is hereby created in the department of commerce a 2396
division of ~~labor~~ industrial compliance, which shall have all 2397
powers and perform all duties vested by law in the superintendent 2398
of ~~labor~~ industrial compliance. Wherever powers are conferred or 2399
duties imposed upon the superintendent of ~~labor~~ industrial 2400
compliance, those powers and duties shall be construed as vested 2401
in the division of ~~labor~~ industrial compliance. The division of 2402
~~labor~~ industrial compliance shall be under the control and 2403
supervision of the director of commerce and be administered by the 2404
superintendent of ~~labor~~ industrial compliance. 2405

(J) There is hereby created in the department of commerce a 2406
division of unclaimed funds, which shall have all powers and 2407
perform all duties delegated to or vested by law in the 2408
superintendent of unclaimed funds. Wherever powers are conferred 2409

or duties imposed upon the superintendent of unclaimed funds, 2410
those powers and duties shall be construed as vested in the 2411
division of unclaimed funds. The division of unclaimed funds shall 2412
be under the control and supervision of the director of commerce 2413
and shall be administered by the superintendent of unclaimed 2414
funds. The superintendent of unclaimed funds shall exercise the 2415
powers and perform the functions and duties delegated to the 2416
superintendent by the director of commerce under section 121.07 2417
and Chapter 169. of the Revised Code, and as may otherwise be 2418
provided by law. 2419

(K) The department of commerce or a division of the 2420
department created by the Revised Code that is acting with 2421
authorization on the department's behalf may request from the 2422
bureau of criminal identification and investigation pursuant to 2423
section 109.572 of the Revised Code, or coordinate with 2424
appropriate federal, state, and local government agencies to 2425
accomplish, criminal records checks for the persons whose 2426
identities are required to be disclosed by an applicant for the 2427
issuance or transfer of a permit, license, certificate of 2428
registration, or certification issued or transferred by the 2429
department or division. At or before the time of making a request 2430
for a criminal records check, the department or division may 2431
require any person whose identity is required to be disclosed by 2432
an applicant for the issuance or transfer of such a license, 2433
permit, certificate of registration, or certification to submit to 2434
the department or division valid fingerprint impressions in a 2435
format and by any media or means acceptable to the bureau of 2436
criminal identification and investigation and, when applicable, 2437
the federal bureau of investigation. The department or division 2438
may cause the bureau of criminal identification and investigation 2439
to conduct a criminal records check through the federal bureau of 2440
investigation only if the person for whom the criminal records 2441
check would be conducted resides or works outside of this state or 2442

has resided or worked outside of this state during the preceding 2443
five years, or if a criminal records check conducted by the bureau 2444
of criminal identification and investigation within this state 2445
indicates that the person may have a criminal record outside of 2446
this state. 2447

In the case of a criminal records check under section 109.572 2448
of the Revised Code, the department or division shall forward to 2449
the bureau of criminal identification and investigation the 2450
requisite form, fingerprint impressions, and fee described in 2451
division (C) of that section. When requested by the department or 2452
division in accordance with this section, the bureau of criminal 2453
identification and investigation shall request from the federal 2454
bureau of investigation any information it has with respect to the 2455
person who is the subject of the requested criminal records check 2456
and shall forward the requisite fingerprint impressions and 2457
information to the federal bureau of investigation for that 2458
criminal records check. After conducting a criminal records check 2459
or receiving the results of a criminal records check from the 2460
federal bureau of investigation, the bureau of criminal 2461
identification and investigation shall provide the results to the 2462
department or division. 2463

The department or division may require any person about whom 2464
a criminal records check is requested to pay to the department or 2465
division the amount necessary to cover the fee charged to the 2466
department or division by the bureau of criminal identification 2467
and investigation under division (C)(3) of section 109.572 of the 2468
Revised Code, including, when applicable, any fee for a criminal 2469
records check conducted by the federal bureau of investigation. 2470

Sec. 121.083. The superintendent of ~~labor~~ industrial 2471
compliance in the department of commerce shall do all of the 2472
following: 2473

(A) Administer and enforce the general laws of this state 2474
pertaining to buildings, pressure piping, boilers, bedding, 2475
upholstered furniture, and stuffed toys, steam engineering, 2476
elevators, plumbing, licensed occupations regulated by the 2477
department, and travel agents, as they apply to plans review, 2478
inspection, code enforcement, testing, licensing, registration, 2479
and certification. 2480

(B) Exercise the powers and perform the duties delegated to 2481
the superintendent by the director of commerce under Chapters 2482
4109., 4111., and 4115. of the Revised Code. 2483

(C) Collect and collate statistics as are necessary. 2484

(D) Examine and license persons who desire to act as steam 2485
engineers, to operate steam boilers, and to act as inspectors of 2486
steam boilers, provide for the scope, conduct, and time of such 2487
examinations, provide for, regulate, and enforce the renewal and 2488
revocation of such licenses, inspect and examine steam boilers and 2489
make, publish, and enforce rules and orders for the construction, 2490
installation, inspection, and operation of steam boilers, and do, 2491
require, and enforce all things necessary to make such 2492
examination, inspection, and requirement efficient. 2493

(E) Rent and furnish offices as needed in cities in this 2494
state for the conduct of its affairs. 2495

(F) Oversee a chief of construction and compliance, a chief 2496
of operations and maintenance, a chief of licensing and 2497
certification, a chief of worker protection, and other designees 2498
appointed by the director to perform the duties described in this 2499
section. 2500

(G) Enforce the rules the board of building standards adopts 2501
pursuant to division (A)(2) of section 4104.43 of the Revised Code 2502
under the circumstances described in division (D) of that section. 2503

(H) Accept submissions, establish a fee for submissions, and 2504

review submissions of certified welding and brazing procedure 2505
specifications, procedure qualification records, and performance 2506
qualification records for building services piping as required by 2507
section 4104.44 of the Revised Code. 2508

Sec. 121.084. (A) All moneys collected under sections 2509
3783.05, 3791.07, 4104.07, 4104.18, 4104.44, 4105.17, 4105.20, 2510
4169.03, 4171.04, and 5104.051 of the Revised Code, and any other 2511
moneys collected by the division of ~~labor~~ industrial compliance 2512
shall be paid into the state treasury to the credit of the ~~labor~~ 2513
industrial compliance operating fund, which is hereby created. The 2514
department of commerce shall use the moneys in the fund for paying 2515
the operating expenses of the division and the administrative 2516
assessment described in division (B) of this section. 2517

(B) The director of commerce, with the approval of the 2518
director of budget and management, shall prescribe procedures for 2519
assessing the ~~labor~~ industrial compliance operating fund a 2520
proportionate share of the administrative costs of the department 2521
of commerce. The assessment shall be made in accordance with those 2522
procedures and be paid from the ~~labor~~ industrial compliance 2523
operating fund to the division of administration fund created in 2524
section 121.08 of the Revised Code. 2525

Sec. 121.35. (A) Subject to division (B) of this section, the 2526
following state agencies shall collaborate to revise and make more 2527
uniform the eligibility standards and eligibility determination 2528
procedures of programs the state agencies administer: 2529

(1) The department of aging; 2530
2531

(2) The department of alcohol and drug addiction services; 2532

(3) The department of development; 2533

(4) The department of developmental disabilities; 2534

<u>(5) The department of education;</u>	2535
<u>(6) The department of health;</u>	2536
<u>(7) The department of job and family services;</u>	2537
<u>(8) The department of mental health;</u>	2538
<u>(9) The rehabilitation services commission.</u>	2539
<u>(B) In revising eligibility standards and eligibility</u>	2540
<u>determination procedures, a state agency shall not make any</u>	2541
<u>program's eligibility standards or eligibility determination</u>	2542
<u>procedures inconsistent with state or federal law. To the extent</u>	2543
<u>authorized by state and federal law, the revisions may provide for</u>	2544
<u>the state agencies to share administrative operations.</u>	2545
Sec. 122.07. (A) The department of development may do either	2546
<u>any</u> of the following:	2547
(1) Disseminate information concerning the industrial,	2548
commercial, governmental, educational, cultural, recreational,	2549
agricultural, and other advantages and attractions of the state;	2550
(2) Provide technical assistance to public and private	2551
agencies in the preparation of promotional programs designed to	2552
attract business, industry, and tourists to the state;	2553
<u>(3) Enter into cooperative or contractual agreements, through</u>	2554
<u>the director of development, with any individual, organization, or</u>	2555
<u>business to create, administer, or otherwise be involved with Ohio</u>	2556
<u>tourism-related promotional programs. Compensation under such</u>	2557
<u>agreements shall be determined by the director and may include</u>	2558
<u>deferred compensation. This compensation is payable from the</u>	2559
<u>travel and tourism cooperative projects fund of the department.</u>	2560
<u>Any excess revenue generated under such a cooperative or</u>	2561
<u>contractual agreement shall be remitted to the fund to be</u>	2562
<u>reinvested in ongoing tourism marketing initiatives as authorized</u>	2563
<u>by law.</u>	2564

(B) Records related to tourism market research submitted to 2565
or generated by the research office of the division of travel and 2566
tourism of the department of development, and any information 2567
taken for any purpose from such research, are not public records 2568
for the purposes of section 149.43 of the Revised Code. The 2569
department may use, however, such tourism market research in a 2570
public report if the director of the department determines that 2571
issuing and distributing the report would promote or market the 2572
state's travel and tourism industry or otherwise advance the 2573
purposes of this section. 2574

Sec. 123.01. (A) The department of administrative services, 2575
in addition to those powers enumerated in Chapters 124. and 125. 2576
of the Revised Code and provided elsewhere by law, shall exercise 2577
the following powers: 2578

~~(1) To prepare, or contract to be prepared, by licensed 2579
engineers or architects, surveys, general and detailed plans, 2580
specifications, bills of materials, and estimates of cost for any 2581
projects, improvements, or public buildings to be constructed by 2582
state agencies that may be authorized by legislative 2583
appropriations or any other funds made available therefor, 2584
provided that the construction of the projects, improvements, or 2585
public buildings is a statutory duty of the department. This 2586
section does not require the independent employment of an 2587
architect or engineer as provided by section 153.01 of the Revised 2588
Code in the cases to which that section applies nor affect or 2589
alter the existing powers of the director of transportation. 2590~~

~~(2) To have general supervision over the construction of any 2591
projects, improvements, or public buildings constructed for a 2592
state agency and over the inspection of materials previous to 2593
their incorporation into those projects, improvements, or 2594
buildings; 2595~~

~~(3) To make contracts for and supervise the construction of any projects and improvements or the construction and repair of buildings under the control of a state agency, except contracts for the repair of buildings under the management and control of the departments of public safety, job and family services, mental health, developmental disabilities, rehabilitation and correction, and youth services, the bureau of workers' compensation, the rehabilitation services commission, and boards of trustees of educational and benevolent institutions and except contracts for the construction of projects that do not require the issuance of a building permit or the issuance of a certificate of occupancy and that are necessary to remediate conditions at a hazardous waste facility, solid waste facility, or other location at which the director of environmental protection has reason to believe there is a substantial threat to public health or safety or the environment. These contracts shall be made and entered into by the directors of public safety, job and family services, mental health, developmental disabilities, rehabilitation and correction, and youth services, the administrator of workers' compensation, the rehabilitation services commission, the boards of trustees of such institutions, and the director of environmental protection, respectively. All such contracts may be in whole or in part on unit price basis of maximum estimated cost, with payment computed and made upon actual quantities or units.~~

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

~~(5)(2) To acquire, by purchase, gift, devise, lease, or grant, all real estate required by a state agency, in the exercise of which power the department may exercise the power of eminent domain, in the manner provided by sections 163.01 to 163.22 of the Revised Code;~~

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

~~(7)(3) To erect, supervise, and maintain all public monuments and memorials erected by the state, except where the supervision and maintenance is otherwise provided by law;~~

~~(8)(4) To procure, by lease, storage accommodations for a state agency;~~

~~(9)(5) To lease or grant easements or licenses for unproductive and unused lands or other property under the control of a state agency. Such leases, easements, or licenses shall may be granted to any person or entity, shall be for a period not to exceed fifteen years, and shall be executed for the state by the director of administrative services ~~and the governor and shall be approved as to form by the attorney general, provided that leases, easements, or licenses may be granted to any county, township, municipal corporation, port authority, water or sewer district, school district, library district, health district, park district, soil and water conservation district, conservancy district, or other political subdivision or taxing district, or any agency of the United States government, for the exclusive use of that agency, political subdivision, or taxing district, without any right of sublease or assignment, for a period not to exceed fifteen years, and~~ or the director's designee, provided that the director or the director's designee shall grant leases, easements, or licenses of university land for periods not to exceed twenty-five years for purposes approved by the respective university's board of trustees wherein the uses are compatible with the uses and needs of the university and may grant leases of university land for periods not to exceed forty years for purposes approved by the respective university's board of trustees pursuant~~

to section ~~123.77~~ 123.17 of the Revised Code. 2660

~~(10)~~(6) To lease space for the use of a state agency; 2661

~~(11)~~(7) To have general supervision and care of the 2662
storerooms, offices, and buildings leased for the use of a state 2663
agency; 2664

~~(12)~~(8) To exercise general custodial care of all real 2665
property of the state; 2666

~~(13)~~(9) To assign and group together state offices in any 2667
city in the state and to establish, in cooperation with the state 2668
agencies involved, rules governing space requirements for office 2669
or storage use; 2670

~~(14)~~(10) To lease for a period not to exceed forty years, 2671
pursuant to a contract providing for the construction thereof 2672
under a lease-purchase plan, buildings, structures, and other 2673
improvements for any public purpose, and, in conjunction 2674
therewith, to grant leases, easements, or licenses for lands under 2675
the control of a state agency for a period not to exceed forty 2676
years. The lease-purchase plan shall provide that at the end of 2677
the lease period, the buildings, structures, and related 2678
improvements, together with the land on which they are situated, 2679
shall become the property of the state without cost. 2680

(a) Whenever any building, structure, or other improvement is 2681
to be so leased by a state agency, the department shall retain 2682
either basic plans, specifications, bills of materials, and 2683
estimates of cost with sufficient detail to afford bidders all 2684
needed information or, alternatively, all of the following plans, 2685
details, bills of materials, and specifications: 2686

(i) Full and accurate plans suitable for the use of mechanics 2687
and other builders in the improvement; 2688

(ii) Details to scale and full sized, so drawn and 2689

represented as to be easily understood; 2690

(iii) Accurate bills showing the exact quantity of different 2691
kinds of material necessary to the construction; 2692

(iv) Definite and complete specifications of the work to be 2693
performed, together with such directions as will enable a 2694
competent mechanic or other builder to carry them out and afford 2695
bidders all needed information; 2696

(v) A full and accurate estimate of each item of expense and 2697
of the aggregate cost thereof. 2698

(b) The department shall give public notice, in such 2699
newspaper, in such form, and with such phraseology as the director 2700
of administrative services prescribes, published once each week 2701
for four consecutive weeks, of the time when and place where bids 2702
will be received for entering into an agreement to lease to a 2703
state agency a building, structure, or other improvement. The last 2704
publication shall be at least eight days preceding the day for 2705
opening the bids. The bids shall contain the terms upon which the 2706
builder would propose to lease the building, structure, or other 2707
improvement to the state agency. The form of the bid approved by 2708
the department shall be used, and a bid is invalid and shall not 2709
be considered unless that form is used without change, alteration, 2710
or addition. Before submitting bids pursuant to this section, any 2711
builder shall comply with Chapter 153. of the Revised Code. 2712

(c) On the day and at the place named for receiving bids for 2713
entering into lease agreements with a state agency, the director 2714
of administrative services shall open the bids and shall publicly 2715
proceed immediately to tabulate the bids upon duplicate sheets. No 2716
lease agreement shall be entered into until the bureau of workers' 2717
compensation has certified that the person to be awarded the lease 2718
agreement has complied with Chapter 4123. of the Revised Code, 2719
until, if the builder submitting the lowest and best bid is a 2720

foreign corporation, the secretary of state has certified that the 2721
corporation is authorized to do business in this state, until, if 2722
the builder submitting the lowest and best bid is a person 2723
nonresident of this state, the person has filed with the secretary 2724
of state a power of attorney designating the secretary of state as 2725
its agent for the purpose of accepting service of summons in any 2726
action brought under Chapter 4123. of the Revised Code, and until 2727
the agreement is submitted to the attorney general and the 2728
attorney general's approval is certified thereon. Within thirty 2729
days after the day on which the bids are received, the department 2730
shall investigate the bids received and shall determine that the 2731
bureau and the secretary of state have made the certifications 2732
required by this section of the builder who has submitted the 2733
lowest and best bid. Within ten days of the completion of the 2734
investigation of the bids, the department shall award the lease 2735
agreement to the builder who has submitted the lowest and best bid 2736
and who has been certified by the bureau and secretary of state as 2737
required by this section. If bidding for the lease agreement has 2738
been conducted upon the basis of basic plans, specifications, 2739
bills of materials, and estimates of costs, upon the award to the 2740
builder the department, or the builder with the approval of the 2741
department, shall appoint an architect or engineer licensed in 2742
this state to prepare such further detailed plans, specifications, 2743
and bills of materials as are required to construct the building, 2744
structure, or improvement. The department shall adopt such rules 2745
as are necessary to give effect to this section. The department 2746
may reject any bid. Where there is reason to believe there is 2747
collusion or combination among bidders, the bids of those 2748
concerned therein shall be rejected. 2749

~~(15)~~(11) To acquire by purchase, gift, devise, or grant and 2750
to transfer, lease, or otherwise dispose of all real property 2751
required to assist in the development of a conversion facility as 2752
defined in section 5709.30 of the Revised Code as that section 2753

existed before its repeal by Amended Substitute House Bill 95 of 2754
the 125th general assembly; 2755

~~(16)~~(12) To lease for a period not to exceed forty years, 2756
notwithstanding any other division of this section, the 2757
state-owned property located at 408-450 East Town Street, 2758
Columbus, Ohio, formerly the state school for the deaf, to a 2759
developer in accordance with this section. "Developer," as used in 2760
this section, has the same meaning as in section 123.77 of the 2761
Revised Code. 2762

Such a lease shall be for the purpose of development of the 2763
land for use by senior citizens by constructing, altering, 2764
renovating, repairing, expanding, and improving the site as it 2765
existed on June 25, 1982. A developer desiring to lease the land 2766
shall prepare for submission to the department a plan for 2767
development. Plans shall include provisions for roads, sewers, 2768
water lines, waste disposal, water supply, and similar matters to 2769
meet the requirements of state and local laws. The plans shall 2770
also include provision for protection of the property by insurance 2771
or otherwise, and plans for financing the development, and shall 2772
set forth details of the developer's financial responsibility. 2773

The department may employ, as employees or consultants, 2774
persons needed to assist in reviewing the development plans. Those 2775
persons may include attorneys, financial experts, engineers, and 2776
other necessary experts. The department shall review the 2777
development plans and may enter into a lease if it finds all of 2778
the following: 2779

(a) The best interests of the state will be promoted by 2780
entering into a lease with the developer; 2781

(b) The development plans are satisfactory; 2782

(c) The developer has established the developer's financial 2783
responsibility and satisfactory plans for financing the 2784

development. 2785

The lease shall contain a provision that construction or 2786
renovation of the buildings, roads, structures, and other 2787
necessary facilities shall begin within one year after the date of 2788
the lease and shall proceed according to a schedule agreed to 2789
between the department and the developer or the lease will be 2790
terminated. The lease shall contain such conditions and 2791
stipulations as the director considers necessary to preserve the 2792
best interest of the state. Moneys received by the state pursuant 2793
to this lease shall be paid into the general revenue fund. The 2794
lease shall provide that at the end of the lease period the 2795
buildings, structures, and related improvements shall become the 2796
property of the state without cost. 2797

~~(17)~~(13) To manage the use of space owned and controlled by 2798
the department, including space in property under the jurisdiction 2799
of the Ohio building authority, by doing all of the following: 2800

(a) Biennially implementing, by state agency location, a 2801
census of agency employees assigned space; 2802

(b) Periodically in the discretion of the director of 2803
administrative services: 2804

(i) Requiring each state agency to categorize the use of 2805
space allotted to the agency between office space, common areas, 2806
storage space, and other uses, and to report its findings to the 2807
department; 2808

(ii) Creating and updating a master space utilization plan 2809
for all space allotted to state agencies. The plan shall 2810
incorporate space utilization metrics. 2811

(iii) Conducting a cost-benefit analysis to determine the 2812
effectiveness of state-owned buildings; 2813

(iv) Assessing the alternatives associated with consolidating 2814

the commercial leases for buildings located in Columbus. 2815

(c) Commissioning a comprehensive space utilization and 2816
capacity study in order to determine the feasibility of 2817
consolidating existing commercially leased space used by state 2818
agencies into a new state-owned facility. 2819

(14) To adopt rules to ensure that energy efficiency and 2820
conservation is considered in the purchase of products and 2821
equipment, except motor vehicles, by any state agency, department, 2822
division, bureau, office, unit, board, commission, authority, 2823
quasi-governmental entity, or institution. The department may 2824
require minimum energy efficiency standards for purchased products 2825
and equipment based on federal testing and labeling if available 2826
or on standards developed by the department. When possible, the 2827
rules shall apply to the competitive selection of energy consuming 2828
systems, components, and equipment under Chapter 125. of the 2829
Revised Code. 2830

(15) To ensure energy efficient and energy conserving 2831
purchasing practices by doing all of the following: 2832

(a) Identifying available energy efficiency and conservation 2833
opportunities; 2834

(b) Providing for interchange of information among purchasing 2835
agencies; 2836

(c) Identifying laws, policies, rules, and procedures that 2837
should be modified; 2838

(d) Monitoring experience with and the cost-effectiveness of 2839
this state's purchase and use of motor vehicles and of major 2840
energy-consuming systems, components, equipment, and products 2841
having a significant impact on energy consumption by the 2842
government; 2843

(e) Providing technical assistance and training to state 2844

employees involved in the purchasing process; 2845

(f) Working with the department of development to make 2846
recommendations regarding planning and implementation of 2847
purchasing policies and procedures that are supportive of energy 2848
efficiency and conservation. 2849

(16) To require all state agencies, departments, divisions, 2850
bureaus, offices, units, commissions, boards, authorities, 2851
quasi-governmental entities, institutions, and state institutions 2852
of higher education to implement procedures to ensure that all of 2853
the passenger automobiles they acquire in each fiscal year, except 2854
for those passenger automobiles acquired for use in law 2855
enforcement or emergency rescue work, achieve a fleet average fuel 2856
economy of not less than the fleet average fuel economy for that 2857
fiscal year as the department shall prescribe by rule. The 2858
department shall adopt the rule prior to the beginning of the 2859
fiscal year, in accordance with the average fuel economy standards 2860
established by federal law for passenger automobiles manufactured 2861
during the model year that begins during the fiscal year. 2862

Each state agency, department, division, bureau, office, 2863
unit, commission, board, authority, quasi-governmental entity, 2864
institution, and state institution of higher education shall 2865
determine its fleet average fuel economy by dividing the total 2866
number of passenger vehicles acquired during the fiscal year, 2867
except for those passenger vehicles acquired for use in law 2868
enforcement or emergency rescue work, by a sum of terms, each of 2869
which is a fraction created by dividing the number of passenger 2870
vehicles of a given make, model, and year, except for passenger 2871
vehicles acquired for use in law enforcement or emergency rescue 2872
work, acquired during the fiscal year by the fuel economy measured 2873
by the administrator of the United States environmental protection 2874
agency, for the given make, model, and year of vehicle, that 2875
constitutes an average fuel economy for combined city and highway 2876

<u>driving.</u>	2877
<u>As used in division (A)(16) of this section, "acquired" means</u>	2878
<u>leased for a period of sixty continuous days or more, or</u>	2879
<u>purchased.</u>	2880
(B) This section and section 125.02 of the Revised Code shall	2881
not interfere with any of the following:	2882
(1) The power of the adjutant general to purchase military	2883
supplies, or with the custody of the adjutant general of property	2884
leased, purchased, or constructed by the state and used for	2885
military purposes, or with the functions of the adjutant general	2886
as director of state armories;	2887
(2) The power of the director of transportation in acquiring	2888
rights-of-way for the state highway system, or the leasing of	2889
lands for division or resident district offices, or the leasing of	2890
lands or buildings required in the maintenance operations of the	2891
department of transportation, or the purchase of real property for	2892
garage sites or division or resident district offices, or in	2893
preparing plans and specifications for and constructing such	2894
buildings as the director may require in the administration of the	2895
department;	2896
(3) The power of the director of public safety and the	2897
registrar of motor vehicles to purchase or lease real property and	2898
buildings to be used solely as locations to which a deputy	2899
registrar is assigned pursuant to division (B) of section 4507.011	2900
of the Revised Code and from which the deputy registrar is to	2901
conduct the deputy registrar's business, the power of the director	2902
of public safety to purchase or lease real property and buildings	2903
to be used as locations for division or district offices as	2904
required in the maintenance of operations of the department of	2905
public safety, and the power of the superintendent of the state	2906
highway patrol in the purchase or leasing of real property and	2907

buildings needed by the patrol, to negotiate the sale of real 2908
property owned by the patrol, to rent or lease real property owned 2909
or leased by the patrol, and to make or cause to be made repairs 2910
to all property owned or under the control of the patrol; 2911

(4) The power of the division of liquor control in the 2912
leasing or purchasing of retail outlets and warehouse facilities 2913
for the use of the division; 2914

(5) The power of the director of development to enter into 2915
leases of real property, buildings, and office space to be used 2916
solely as locations for the state's foreign offices to carry out 2917
the purposes of section 122.05 of the Revised Code; 2918

(6) The power of the director of environmental protection to 2919
enter into environmental covenants, to grant and accept easements, 2920
or to sell property pursuant to division (G) of section 3745.01 of 2921
the Revised Code. 2922

(C) Purchases for, and the custody and repair of, buildings 2923
under the management and control of the capitol square review and 2924
advisory board, the rehabilitation services commission, the bureau 2925
of workers' compensation, or the departments of public safety, job 2926
and family services, mental health, developmental disabilities, 2927
and rehabilitation and correction; buildings of educational and 2928
benevolent institutions under the management and control of boards 2929
of trustees; and purchases or leases for, and the custody and 2930
repair of, office space used for the purposes of the joint 2931
legislative ethics committee are not subject to the control and 2932
jurisdiction of the department of administrative services. 2933

If the joint legislative ethics committee so requests, the 2934
committee and the director of administrative services may enter 2935
into a contract under which the department of administrative 2936
services agrees to perform any services requested by the committee 2937
that the department is authorized under this section to perform. 2938

(D) Any instrument by which real property is acquired 2939
pursuant to this section shall identify the agency of the state 2940
that has the use and benefit of the real property as specified in 2941
section 5301.012 of the Revised Code. 2942

Sec. ~~123.04~~ 123.02. The director of administrative services 2943
shall be appointed superintendent of public works and shall have 2944
the care and control of the public works of the state and shall 2945
protect, maintain, and keep them in repair. 2946

Subject to the approval of the governor, the director may 2947
purchase on behalf of the state such real or personal property, 2948
rights, or privileges as are necessary, in the director's 2949
judgment, to acquire in the maintenance of the public works or 2950
their improvement. 2951

Any instrument by which the state or an agency of the state 2952
acquires real property pursuant to this section shall identify the 2953
agency of the state that has the use and benefit of the real 2954
property as specified in section 5301.012 of the Revised Code. 2955

Sec. ~~123.07~~ 123.03. The director of administrative services 2956
may maintain an action in the name of the state for violations of 2957
any law relating to the public works for an injury to property 2958
pertaining to the public works, or for any other cause which is 2959
necessary in the performance of ~~his~~ the director's duties. 2960

Sec. ~~123.09~~ 123.04. The director of administrative services 2961
shall have supervision of the public works of the state and shall 2962
make such rules and regulations for the ~~improvement,~~ maintenance, 2963
and operation of the public works as are necessary. 2964

Sec. ~~123.10~~ 123.05. ~~(A)~~ The director of administrative 2965
services shall regulate the rate of tolls to be collected on the 2966
public works of the state, and shall fix all rentals and collect 2967

all tolls, rents, fines, commissions, fees, and other revenues 2968
arising from any source in the public works, including the sale, 2969
~~construction~~, purchase, or rental of property, except that the 2970
director shall not collect a commission or fee from a real estate 2971
broker or the private owner when real property is leased or rented 2972
to the state. 2973

~~(B) There is hereby created in the state treasury the state 2974
architect's fund which shall consist of money received by the 2975
department of administrative services under division (A) of this 2976
section, fees paid under section 123.17 of the Revised Code, 2977
transfers of money to the fund authorized by the general assembly, 2978
and such amount of the investment earnings of the administrative 2979
building fund created in division (F) of section 154.24 of the 2980
Revised Code as the director of budget and management determines 2981
to be appropriate and in excess of the amounts required to meet 2982
estimated federal arbitrage rebate requirements. Money in the fund 2983
shall be used by the department of administrative services for the 2984
following purposes: 2985~~

~~(1) To pay personnel and other administrative expenses of the 2986
department; 2987~~

~~(2) To pay the cost of conducting evaluations of public 2988
works; 2989~~

~~(3) To pay the cost of building design specifications; 2990~~

~~(4) To pay the cost of providing project management services; 2991~~

~~(5) To pay the cost of operating the local administration 2992
competency certification program prescribed by section 123.17 of 2993
the Revised Code; 2994~~

~~(6) Any other purposes that the director of administrative 2995
services determines to be necessary for the department to execute 2996
its duties under this chapter. 2997~~

Sec. ~~123.024~~ 123.06. (A) The department of administrative services shall assign and make available, at state expense, suitable office space in state-owned facilities to accommodate the office operations of the state headquarters of both of the following:

(1) All veterans organizations in this state that either are incorporated and issued a charter by the congress of the United States or are recognized by the United States department of veterans affairs;

(2) The auxiliary organizations of veterans organizations described in division (A)(1) of this section.

(B) The department may situate office space for each auxiliary organization of a veterans organization with or near the office space of that veterans organization.

Sec. ~~123.11~~ 123.07. Each state agency and any county, township, or municipal corporation owning, leasing, or controlling the operation of parking spaces for use by its employees may provide preferential parking for those vehicles used in carpools, vanpools, and buspools. The department of administrative services shall coordinate the efforts of the state agencies in providing preferential parking for such vehicles.

Sec. ~~123.13~~ 123.08. The director of administrative services shall appoint such ~~foreman forepersons, patrolmen patrol officers,~~ lock tenders, inspectors, engineers, and all other employees as are necessary for the ~~improvement,~~ maintenance, and operation of the public works. They shall be assigned to duty under the supervision of the director, under rules and regulations prescribed by ~~him~~ the director. Any such employee, when deemed necessary by the director, shall give proper bond to the state, conditioned for the faithful performance of ~~his~~ the employee's

duties. Such bonds may, in the discretion of the director, be 3028
individual, schedule, or blanket bonds. 3029

Sec. ~~123.14~~ 123.09. All claims against the state for the 3030
~~improvement~~, repair, maintenance, and operation of the public 3031
works of Ohio, including salary and expenses of all employees 3032
engaged in such work, shall be paid upon the order of the director 3033
of administrative services. 3034

Sec. ~~123.15~~ 123.10. (A) As used in this section and section 3035
~~123.21~~ 123.11 of the Revised Code, "public exigency" means an 3036
injury or obstruction that occurs in any public works of the state 3037
maintained by the director of administrative services and that 3038
materially impairs its immediate use or places in jeopardy 3039
property adjacent to it; an immediate danger of such an injury or 3040
obstruction; or an injury or obstruction, or an immediate danger 3041
of an injury or obstruction, that occurs ~~during the process of~~ 3042
~~construction of~~ in any public works of the state maintained by the 3043
director of administrative services and that materially impairs 3044
its immediate use or places in jeopardy property adjacent to it. 3045

(B) ~~The~~ When a declaration of public exigency is issued 3046
pursuant to division (C) of this section, the director of 3047
administrative services may request the Ohio facilities 3048
construction commission to enter into contracts with proper 3049
persons for the performance of labor, the furnishing of materials, 3050
or the construction of any structures and buildings necessary to 3051
the maintenance, control, and management of the public works of 3052
the state or any part of those public works. ~~Except as provided in~~ 3053
~~division (C) of this section for public exigencies, the director~~ 3054
~~shall advertise, award, and administer those~~ Any contracts in 3055
~~accordance with the requirements~~ awarded for the work performed 3056
pursuant to the declaration of a public exigency may be awarded 3057
without competitive bidding or selection as set forth in Chapter 3058

153. of the Revised Code. 3059

(C) The director of administrative services may issue a 3060
declaration of a public exigency on the director's own initiative 3061
or upon the request of the director of any state agency. The 3062
director's declaration shall identify the specific injury, 3063
obstruction, or danger that is the subject of the declaration and 3064
shall set forth a dollar limitation for the repair, removal, or 3065
prevention of that exigency under the declaration. 3066

Before any project to repair, remove, or prevent a public 3067
exigency under the director's declaration may begin, the director 3068
shall send notice of the project, in writing, to the director of 3069
budget and management and to the members of the controlling board. 3070
That notice shall detail the project to be undertaken to address 3071
the public exigency and shall include a copy of the director's 3072
declaration that establishes the monetary limitations on that 3073
project. 3074

Sec. ~~123.21~~ 123.11. When a public exigency, as defined in 3075
division (A) of section ~~123.15~~ 123.10 of the Revised Code, exists, 3076
the director of administrative services may take possession of 3077
lands and use them, or materials and other property necessary for 3078
the maintenance, protection, or repair of the public works, in 3079
accordance with sections 163.01 to 163.22 of the Revised Code. 3080

Sec. ~~123.46~~ 123.12. No land lease or sale of state lands 3081
shall be made by the director of administrative services except 3082
upon the written approval of the governor and the attorney 3083
general. 3084

Sec. ~~123.47~~ 123.13. Except as otherwise provided by law, the 3085
director of administrative services shall have the custody and 3086
control of the books, records, papers, surveys, maps, plats, and 3087
documents that pertain to any of the public works of this state. 3088

Sec. ~~123.48~~ 123.14. The director of administrative services 3089
shall make an annual report to the governor containing a statement 3090
of the expenses of the public works under ~~his~~ the director's 3091
supervision during the preceding year, setting forth an account of 3092
moneys expended on each of the public works during the year, and 3093
such other information and records as ~~he~~ the director deems 3094
proper. Such report shall contain a statement of the moneys 3095
received from all sources and an estimate of the appropriations 3096
necessary to maintain the public works and keep them in repair. 3097
The report shall also contain a list of all persons regularly 3098
employed, together with the salary, compensation, or allowance 3099
paid each. 3100

~~He~~ The director shall further from time to time when ~~he~~ the 3101
director deems it necessary, or when called upon by the governor, 3102
to do so, make such other reports as are proper, touching on the 3103
general condition and welfare of the public works and the 3104
drainage, leaseholds, and water powers incident thereto. 3105

Sec. ~~123.49~~ 123.15. The department of administrative services 3106
may adopt, amend, and rescind rules pertaining to lands under the 3107
supervision of the department in accordance with Chapter 119. of 3108
the Revised Code. 3109

Sec. 123.152. (A) As used in this section, "EDGE business 3110
enterprise" means a sole proprietorship, association, partnership, 3111
corporation, limited liability corporation, or joint venture 3112
certified as a participant in the encouraging diversity, growth, 3113
and equity program by the director of administrative services 3114
under this section of the Revised Code. 3115

(B) The director of administrative services shall establish a 3116
business assistance program known as the encouraging diversity, 3117
growth, and equity program and shall adopt rules in accordance 3118

with Chapter 119. of the Revised Code to administer the program 3119
that do all of the following: 3120

(1) Establish procedures by which a sole proprietorship, 3121
association, partnership, corporation, limited liability 3122
corporation, or joint venture may apply for certification as an 3123
EDGE business enterprise; 3124

(2) Except as provided in division (B)(14) of this section, 3125
establish agency procurement goals for contracting with EDGE 3126
business enterprises in the award of contracts under Chapters 3127
123., 125., and 153. of the Revised Code based on the availability 3128
of eligible program participants by region or geographic area, as 3129
determined by the director, and by standard industrial code or 3130
equivalent code classification. 3131

(a) Goals established under division (B)(2) of this section 3132
shall be based on a percentage level of participation and a 3133
percentage of contractor availability. 3134

(b) Goals established under division (B)(2) of this section 3135
shall be applied at the contract level, relative to an overall 3136
dollar goal for each state agency, in accordance with the 3137
following certification categories: construction, architecture, 3138
and engineering; professional services; goods and services; and 3139
information technology services. 3140

(3) Establish a system of certifying EDGE business 3141
enterprises based on a requirement that the business owner or 3142
owners show both social and economic disadvantage based on the 3143
following, as determined to be sufficient by the director: 3144

(a) Relative wealth of the business seeking certification as 3145
well as the personal wealth of the owner or owners of the 3146
business; 3147

(b) Social disadvantage based on any of the following: 3148

(i) A rebuttable presumption when the business owner or	3149
owners demonstrate membership in a racial minority group or show	3150
personal disadvantage due to color, ethnic origin, gender,	3151
physical disability, long-term residence in an environment	3152
isolated from the mainstream of American society, location in an	3153
area of high unemployment;	3154
(ii) Some other demonstration of personal disadvantage not	3155
common to other small businesses;	3156
(iii) By business location in a qualified census tract.	3157
(c) Economic disadvantage based on economic and business size	3158
thresholds and eligibility criteria designed to stimulate economic	3159
development through contract awards to businesses located in	3160
qualified census tracts.	3161
(4) Establish standards to determine when an EDGE business	3162
enterprise no longer qualifies for EDGE business enterprise	3163
certification;	3164
(5) Develop a process for evaluating and adjusting goals	3165
established by this section to determine what adjustments are	3166
necessary to achieve participation goals established by the	3167
director;	3168
(6) Establish a point system or comparable system to evaluate	3169
bid proposals to encourage EDGE business enterprises to	3170
participate in the procurement of professional design and	3171
information technology services;	3172
(7) Establish a system to track data and analyze each	3173
certification category established under division (B)(2)(b) of	3174
this section;	3175
(8) Establish a process to mediate complaints and to review	3176
EDGE business enterprise certification appeals;	3177
(9) Implement an outreach program to educate potential	3178

participants about the encouraging diversity, growth, and equity program;	3179 3180
(10) Establish a system to assist state agencies in identifying and utilizing EDGE business enterprises in their contracting processes;	3181 3182 3183
(11) Implement a system of self-reporting by EDGE business enterprises as well as an on-site inspection process to validate the qualifications of an EDGE business enterprise;	3184 3185 3186
(12) Establish a waiver mechanism to waive program goals or participation requirements for those companies that, despite their best-documented efforts, are unable to contract with certified EDGE business enterprises;	3187 3188 3189 3190
(13) Establish a process for monitoring overall program compliance in which equal employment opportunity officers primarily are responsible for monitoring their respective agencies;	3191 3192 3193 3194
(14) Establish guidelines for state universities as defined in section 3345.011 of the Revised Code and the Ohio school facilities <u>construction</u> commission created in section 3318.30 <u>123.20</u> of the Revised Code for awarding contracts pursuant to Chapters 153., 3318., and 3345. of the Revised Code to allow the universities and commission to establish agency procurement goals for contracting with EDGE business enterprises.	3195 3196 3197 3198 3199 3200 3201
(C) Business and personal financial information and trade secrets submitted by encouraging diversity, growth, and equity program applicants to the director pursuant to this section are not public records for purposes of section 149.43 of the Revised Code, unless the director presents the financial information or trade secrets at a public hearing or public proceeding regarding the applicant's eligibility to participate in the program.	3202 3203 3204 3205 3206 3207 3208

Sec. ~~123.77~~ 123.17. The department of administrative services 3209
may lease land belonging to or under the control or jurisdiction 3210
of a state university, not required nor to be required for use of 3211
the university, to a developer in accordance with this section. 3212
"Developer," as used in this section, means a person, partnership, 3213
association, corporation, or community improvement corporation 3214
established pursuant to Chapter 1724. of the Revised Code who or 3215
which submits a development plan to the department as provided in 3216
this section and requests the department to enter into a lease. 3217

3218
Such a lease of university land shall be for the purpose of 3219
development of the land by establishing, constructing, altering, 3220
repairing, expanding, and improving industrial, distribution, 3221
commercial, or research facilities. A developer desiring to lease 3222
land of the university for such development shall prepare and 3223
submit to the department of administrative services and to the 3224
board of trustees of the university a plan for such development. 3225
Plans shall include provisions for roads, streets, sewers, water 3226
lines, waste disposal, water supply, and similar matters to meet 3227
the requirements of state and local laws. The plans shall also 3228
include provision for protection of the property by insurance or 3229
otherwise and plans for financing the development, and shall set 3230
forth details of the developer's financial responsibility. 3231

The department of administrative services may employ as 3232
employees or consultants, persons needed to assist it in reviewing 3233
the development plans. Such persons may include attorneys, 3234
financial experts, engineers, and other necessary experts. The 3235
department of administrative services shall review the development 3236
plans and may enter into a lease if it finds that: 3237

(A) The best interests of the university will be promoted by 3238
entering into a lease with the developer. 3239

(B) The development plans are satisfactory. 3240

(C) The developer has established ~~his~~ the developer's 3241
financial responsibility and satisfactory plans for financing the 3242
development. 3243

(D) The university board of trustees approves the lease. 3244

A lease may be entered into pursuant to this section for an 3245
annual rent agreed to between the department and the developer for 3246
a maximum term of forty years and may be renewed for a like or 3247
lesser term. The lease shall contain a provision that construction 3248
of buildings, structures, roads, and other necessary facilities 3249
shall begin within one year after the date of the lease and shall 3250
proceed according to a schedule agreed to between the department 3251
and the developer or the lease will be terminated. Moneys received 3252
by the state pursuant to such leases shall be paid into the state 3253
treasury as an addition to the appropriation made to the 3254
university which has control or jurisdiction of the land or to 3255
which the land belongs. 3256

Sec. ~~123.08~~ 123.18. The director of administrative services 3257
may administer oaths to persons required by law to file affidavits 3258
or statements in the department of administrative services and to 3259
witnesses who are examined in matters pertaining to the 3260
administration of the public works. 3261

Sec. 123.20. (A) There is hereby created the Ohio facilities 3262
construction commission. The commission shall administer the 3263
design and construction of improvements to public facilities of 3264
the state in accordance with this chapter and other provisions of 3265
the Revised Code. 3266

The commission is a body corporate and politic, an agency of 3267
state government and an instrumentality of the state, performing 3268
essential governmental functions of this state. The carrying out 3269

of the purposes and the exercise by the commission of its powers 3270
are essential public functions and public purposes of the state. 3271
The commission may, in its own name, sue and be sued, enter into 3272
contracts, and perform all the powers and duties given to it by 3273
the Revised Code, but it does not have and shall not exercise the 3274
power of eminent domain. In its discretion and as it determines 3275
appropriate, the commission may delegate to any of its members, 3276
executive director, or other employees any of the commission's 3277
powers and duties to carry out its functions. 3278

(B) The commission shall consist of three members: the 3279
director of the office of budget and management and the director 3280
of administrative services, or their designees, and a member whom 3281
the governor shall appoint. 3282

Members of the commission shall serve without compensation. 3283

Within sixty days after the effective date of this section, 3284
the commission shall meet and organize by electing voting members 3285
as the chairperson and vice-chairperson of the commission, who 3286
shall hold their offices until the next organizational meeting of 3287
the commission. Organizational meetings of the commission shall be 3288
held at the first meeting of each calendar year. At each 3289
organizational meeting, the commission shall elect from among its 3290
voting members a chairperson and vice-chairperson, who shall serve 3291
until the next annual organizational meeting. The commission shall 3292
adopt rules pursuant to section 111.15 of the Revised Code for the 3293
conduct of its internal business and shall keep a journal of its 3294
proceedings. Including the organizational meeting, the commission 3295
shall meet at least once each calendar year. 3296

Two members of the commission constitute a quorum, and the 3297
affirmative vote of two members is necessary for approval of any 3298
action taken by the commission. A vacancy in the membership of the 3299
commission does not impair a quorum from exercising all the rights 3300
and performing all the duties of the commission. Meetings of the 3301

commission may be held anywhere in the state and shall be held in 3302
compliance with section 121.22 of the Revised Code. 3303

(C) Within sixty days after the effective date of this 3304
section, the governor shall appoint a member to the commission. 3305
The initial appointment shall be for a term ending three years 3306
after the effective date of this section, with subsequent terms 3307
ending three years after they begin, on the same day of the same 3308
month as the initial term. 3309

A vacancy for the member appointed by the governor shall be 3310
filled in the same manner as provided for the original 3311
appointment. The appointed member shall hold office for the 3312
remainder of the term for which the vacancy existed. After the 3313
expiration of the term, the appointed member shall continue in 3314
office for a period of sixty days or until the appointed member's 3315
successor takes office, whichever period is shorter. 3316

(D) The commission shall file an annual report of its 3317
activities and finances with the governor, speaker of the house of 3318
representatives, president of the senate, and chairpersons of the 3319
house and senate finance committees. 3320

(E) The commission shall be exempt from the requirements of 3321
sections 101.82 to 101.87 of the Revised Code. 3322

Sec. 123.201. There is hereby created in the state treasury 3323
the Ohio facilities construction commission fund, consisting of 3324
transfers of moneys authorized by the general assembly and 3325
revenues received by the Ohio facilities construction commission 3326
under section 123.21 of the Revised Code. Investment earnings on 3327
moneys in the fund shall be credited to the fund. Moneys in the 3328
fund may be used by the commission, in performing its duties under 3329
this chapter, to pay personnel and other administrative expenses, 3330
to pay the cost of preparing building design specifications, to 3331
pay the cost of providing project management services, and for 3332

other purposes determined by the commission to be necessary to 3333
fulfill its duties under this chapter. 3334

Sec. 123.21. (A) The Ohio facilities construction commission 3335
may perform any act and ensure the performance of any function 3336
necessary or appropriate to carry out the purposes of, and 3337
exercise the powers granted under this chapter or any other 3338
provision of the Revised Code, including any of the following: 3339

(1) Prepare, or contract to be prepared, by licensed 3340
engineers or architects, surveys, general and detailed plans, 3341
specifications, bills of materials, and estimates of cost for any 3342
projects, improvements, or public buildings to be constructed by 3343
state agencies that may be authorized by legislative 3344
appropriations or any other funds made available therefor, 3345
provided that the construction of the projects, improvements, or 3346
public buildings is a statutory duty of the commission. This 3347
section does not require the independent employment of an 3348
architect or engineer as provided by section 153.01 of the Revised 3349
Code in the cases to which section 153.01 of the Revised Code 3350
applies. This section does not affect or alter the existing powers 3351
of the director of transportation. 3352

(2) Have general supervision over the construction of any 3353
projects, improvements, or public buildings constructed for a 3354
state agency and over the inspection of materials prior to their 3355
incorporation into those projects, improvements, or buildings. 3356

(3) Make contracts for and supervise the design and 3357
construction of any projects and improvements or the construction 3358
and repair of buildings under the control of a state agency. All 3359
such contracts may be based in whole or in part on the unit price 3360
or maximum estimated cost, with payment computed and made upon 3361
actual quantities or units. 3362

(4) Adopt, amend, and rescind rules pertaining to the 3363
administration of the construction of the public works of the 3364
state as required by law, in accordance with Chapter 119. of the 3365
Revised Code. 3366

(5) Contract with, retain the services of, or designate, and 3367
fix the compensation of, such agents, accountants, consultants, 3368
advisers, and other independent contractors as may be necessary or 3369
desirable to carry out the programs authorized under this chapter, 3370
or authorize the executive director to perform such powers and 3371
duties. 3372

(6) Receive and accept any gifts, grants, donations, and 3373
pledges, and receipts therefrom, to be used for the programs 3374
authorized under this chapter. 3375

(7) Make and enter into all contracts, commitments, and 3376
agreements, and execute all instruments, necessary or incidental 3377
to the performance of its duties and the execution of its rights 3378
and powers under this chapter, or authorize the executive director 3379
to perform such powers and duties. 3380

(8) Debar a contractor as provided in section 153.02 of the 3381
Revised Code. 3382

(B) The commission shall appoint and fix the compensation of 3383
an executive director who shall serve at the pleasure of the 3384
commission. The executive director shall exercise all powers that 3385
the commission possesses, supervise the operations of the 3386
commission, and perform such other duties as delegated by the 3387
commission. The executive director also shall employ and fix the 3388
compensation of such employees as will facilitate the activities 3389
and purposes of the commission, who shall serve at the pleasure of 3390
the executive director. 3391

(C) The attorney general shall serve as the legal 3392
representative for the commission and may appoint other counsel as 3393

necessary for that purpose in accordance with section 109.07 of 3394
the Revised Code. 3395

Sec. ~~123.011~~ 123.22. (A) As used in this section: 3396

(1) "Construct" includes reconstruct, improve, renovate, 3397
enlarge, or otherwise alter. 3398

(2) "Energy consumption analysis" means the evaluation of all 3399
energy consuming systems, components, and equipment by demand and 3400
type of energy, including the internal energy load imposed on a 3401
facility by its occupants and the external energy load imposed by 3402
climatic conditions. 3403

(3) "Energy performance index" means a number describing the 3404
energy requirements of a facility per square foot of floor space 3405
or per cubic foot of occupied volume as appropriate under defined 3406
internal and external ambient conditions over an entire seasonal 3407
cycle. 3408

(4) "Facility" means a building or other structure, or part 3409
of a building or other structure, that includes provision for a 3410
heating, refrigeration, ventilation, cooling, lighting, hot water, 3411
or other major energy consuming system, component, or equipment. 3412

(5) "Life-cycle cost analysis" means a general approach to 3413
economic evaluation that takes into account all dollar costs 3414
related to owning, operating, maintaining, and ultimately 3415
disposing of a project over the appropriate study period. 3416

(6) "Political subdivision" means a county, township, 3417
municipal corporation, board of education of any school district, 3418
or any other body corporate and politic that is responsible for 3419
government activities in a geographic area smaller than that of 3420
the state. 3421

(7) "State funded" means funded in whole or in part through 3422
appropriation by the general assembly or through the use of any 3423

guarantee provided by this state. 3424

(8) "State institution of higher education" has the same 3425
meaning as in section 3345.011 of the Revised Code. 3426

~~(B) There is hereby created within the department of 3427
administrative services the office of energy services. The office 3428
shall be under the supervision of a manager, who shall be 3429
appointed by the director of administrative services. The director 3430
shall assign to the office such number of employees and furnish 3431
such equipment and supplies as are necessary for the performance 3432
of the office's duties. 3433~~

The ~~office~~ Ohio facilities construction commission shall 3434
develop energy efficiency and conservation programs ~~in each of the~~ 3435
~~following areas:~~ 3436

~~(1) New for new construction design and review;~~ 3437

~~(2) Existing and for existing building audit and retrofit;~~ 3438

~~(3) Energy efficient procurement;~~ 3439

~~(4) Alternative fuel vehicles. 3440~~

The ~~office~~ commission may accept and administer grants from 3441
public and private sources for carrying out any of its duties 3442
under this section. 3443

(C) No state agency, department, division, bureau, office, 3444
unit, board, commission, authority, quasi-governmental entity, or 3445
institution, ~~including those agencies otherwise excluded from the~~ 3446
~~jurisdiction of the department under division (A)(3) of section~~ 3447
~~123.01 of the Revised Code,~~ shall lease, construct, or cause to be 3448
leased or constructed, within the limits prescribed in this 3449
section, a state-funded facility, without a proper life-cycle cost 3450
analysis or, in the case of a lease, an energy consumption 3451
analysis, as computed or prepared by a qualified architect or 3452
engineer in accordance with the rules required by division (D) of 3453

this section. 3454

Construction shall proceed only upon the disclosure to the 3455
office, for the facility chosen, of the life-cycle costs as 3456
determined in this section and the capitalization of the initial 3457
construction costs of the building. The results of life-cycle cost 3458
analysis shall be a primary consideration in the selection of a 3459
building design. That analysis shall be required only for 3460
construction of buildings with an area of five thousand square 3461
feet or greater. An energy consumption analysis for the term of a 3462
proposed lease shall be required only for the leasing of an area 3463
of twenty thousand square feet or greater within a given building 3464
boundary. That analysis shall be a primary consideration in the 3465
selection of a facility to be leased. 3466

Nothing in this section shall deprive or limit any state 3467
agency that has review authority over design, construction, or 3468
leasing plans from requiring a life-cycle cost analysis or energy 3469
consumption analysis. 3470

(D) For the purposes of assisting the ~~department~~ commission 3471
in its responsibility for state-funded facilities pursuant to 3472
section ~~123.01~~ 123.21 of the Revised Code and of cost-effectively 3473
reducing the energy consumption of those and any other 3474
state-funded facilities, thereby promoting fiscal, economic, and 3475
environmental benefits to this state, the ~~office~~ commission shall 3476
promulgate rules specifying cost-effective, energy efficiency and 3477
conservation standards that may govern the lease, design, 3478
construction, operation, and maintenance of all state-funded 3479
facilities, except facilities of state institutions of higher 3480
education or facilities operated by a political subdivision. The 3481
office of energy efficiency in the department of development shall 3482
cooperate in providing information and technical expertise to the 3483
office of energy services to ensure promulgation of rules of 3484
maximum effectiveness. The standards prescribed by rules 3485

promulgated under this division may draw from or incorporate, by 3486
reference or otherwise and in whole or in part, standards already 3487
developed or implemented by any competent, public or private 3488
standards organization or program. The rules also may include any 3489
of the following: 3490

(1) Specifications for a life-cycle cost analysis that shall 3491
determine, for the economic life of such state-funded facility, 3492
the reasonably expected costs of facility ownership, operation, 3493
and maintenance including labor and materials. Life-cycle cost may 3494
be expressed as an annual cost for each year of the facility's 3495
use. 3496

A life-cycle cost analysis additionally may include an energy 3497
consumption analysis that conforms to division (D)(2) of this 3498
section. 3499

(2) Specifications for an energy consumption analysis of the 3500
facility's heating, refrigeration, ventilation, cooling, lighting, 3501
hot water, and other major energy consuming systems, components, 3502
and equipment. 3503

A life-cycle cost analysis and energy consumption analysis 3504
shall be based on the best currently available methods of 3505
analysis, such as those of the national institute of standards and 3506
technology, the United States department of energy or other 3507
federal agencies, professional societies, and directions developed 3508
by the department. 3509

(3) Specifications for energy performance indices, to be used 3510
to audit and evaluate competing design proposals submitted to the 3511
state. 3512

(4) A requirement that, not later than two years after April 3513
6, 2007, each state-funded facility, except a facility of a state 3514
institution of higher education or a facility operated by a 3515
political subdivision, is managed by at least one building 3516

operator certified under the building operator certification 3517
program or any equivalent program or standards as shall be 3518
prescribed in the rules and considered reasonably equivalent. 3519

(5) An application process by which a manager of a specified 3520
state-funded facility, except a facility of a state institution of 3521
higher education or a facility operated by a political 3522
subdivision, may apply for a waiver of compliance with any 3523
provision of the rules required by divisions (D)(1) to (4) of this 3524
section. 3525

~~(E) The office of energy services shall promulgate rules to 3526
ensure that energy efficiency and conservation will be considered 3527
in the purchase of products and equipment, except motor vehicles, 3528
by any state agency, department, division, bureau, office, unit, 3529
board, commission, authority, quasi-governmental entity, or 3530
institution. Minimum energy efficiency standards for purchased 3531
products and equipment may be required, based on federal testing 3532
and labeling where available or on standards developed by the 3533
office. The rules shall apply to the competitive selection of 3534
energy consuming systems, components, and equipment under Chapter 3535
125. of the Revised Code where possible. 3536~~

~~The office also shall ensure energy efficient and energy 3537
conserving purchasing practices by doing all of the following: 3538~~

~~(1) Cooperatively with the office of energy efficiency, 3539
identifying available energy efficiency and conservation 3540
opportunities; 3541~~

~~(2) Providing for interchange of information among purchasing 3542
agencies; 3543~~

~~(3) Identifying laws, policies, rules, and procedures that 3544
need modification; 3545~~

~~(4) Monitoring experience with and the cost effectiveness of 3546
this state's purchase and use of motor vehicles and of major 3547~~

~~energy consuming systems, components, equipment, and products 3548
having a significant impact on energy consumption by government; 3549~~

~~(5) Cooperatively with the office of energy efficiency, 3550
providing technical assistance and training to state employees 3551
involved in the purchasing process. 3552~~

~~The department of development shall make recommendations to 3553
the office regarding planning and implementation of purchasing 3554
policies and procedures supportive of energy efficiency and 3555
conservation. 3556~~

~~(F)(1) The office of energy services shall require all state 3557
agencies, departments, divisions, bureaus, offices, units, 3558
commissions, boards, authorities, quasi-governmental entities, 3559
institutions, and state institutions of higher education to 3560
implement procedures ensuring that all their passenger automobiles 3561
acquired in each fiscal year, except for those passenger 3562
automobiles acquired for use in law enforcement or emergency 3563
rescue work, achieve a fleet average fuel economy of not less than 3564
the fleet average fuel economy for that fiscal year as shall be 3565
prescribed by the office by rule. The office shall promulgate the 3566
rule prior to the beginning of the fiscal year in accordance with 3567
the average fuel economy standards established pursuant to federal 3568
law for passenger automobiles manufactured during the model year 3569
that begins during the fiscal year. 3570~~

~~(2) Each state agency, department, division, bureau, office, 3571
unit, commission, board, authority, quasi-governmental entity, 3572
institution, and state institution of higher education shall 3573
determine its fleet average fuel economy by dividing: 3574~~

~~(a) The total number of passenger vehicles acquired during 3575
the fiscal year, except for those passenger vehicles acquired for 3576
use in law enforcement or emergency rescue work, by 3577~~

~~(b) A sum of terms, each of which is a fraction created by 3578~~

~~dividing:~~ 3579

~~(i) The number of passenger vehicles of a given make, model, and year, except for passenger vehicles acquired for use in law enforcement or emergency rescue work, acquired during the fiscal year, by~~ 3580
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~~(ii) The fuel economy measured by the administrator of the United States environmental protection agency, for the given make, model, and year of vehicle, that constitutes an average fuel economy for combined city and highway driving.~~ 3584
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~~As used in division (F)(2) of this section, "acquired" means leased for a period of sixty continuous days or more, or purchased.~~ 3588
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~~(G)(E)~~ Each state agency, department, division, bureau, office, unit, board, commission, authority, quasi-governmental entity, institution, and state institution of higher education shall comply with any applicable provision of this section or of a rule promulgated pursuant to division (D) ~~or (F)~~ of this section. 3591
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Sec. 123.23. (A) As used in this section, "public exigency" means an injury or obstruction that occurs in any public works of the state that materially impairs its immediate use or places in jeopardy property adjacent to it; an immediate danger of such an injury or obstruction; or an injury or obstruction, or an immediate danger of an injury or obstruction, that occurs during the process of construction of any public works and that materially impairs its immediate use or places in jeopardy property adjacent to it. 3596
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(B) When a declaration of a public exigency is issued pursuant to division (C) of this section, the executive director of the Ohio facilities construction commission may enter into contracts with proper persons for the performance of labor, the 3605
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furnishing of materials, or the construction of any structures and 3609
buildings necessary to the maintenance, control, and management of 3610
the public works of the state or any part of those public works. 3611
Any contracts awarded for the work performed pursuant to the 3612
declaration of a public exigency may be awarded without 3613
competitive bidding or selection as otherwise required by Chapter 3614
153. of the Revised Code. 3615

(C) The executive director of the commission may issue a 3616
declaration of a public exigency on the executive director's own 3617
initiative, or upon the request of the director of any state 3618
agency, university, or instrumentality. The executive director's 3619
declaration shall identify the specific injury, obstruction, or 3620
danger that is the subject of the declaration and shall set forth 3621
a dollar limitation for the repair, removal, or prevention of that 3622
exigency under the declaration. 3623

Before any project to repair, remove, or prevent a public 3624
exigency under the executive director's declaration may begin, the 3625
executive director shall send notice of the project, in writing, 3626
to the director of budget and management and to the members of the 3627
controlling board. The notice shall detail the project to be 3628
undertaken to address the public exigency and shall include a copy 3629
of the director's declaration that establishes the monetary 3630
limitations on that project. 3631

Sec. ~~123.17~~ 123.24. (A) As used in this section, "institution 3632
of higher education" means a state university or college, as 3633
defined in section 3345.12 of the Revised Code, or a state 3634
community college. 3635

(B) ~~Not later than December 30, 2005, the state architect~~ The 3636
Ohio facilities construction commission shall establish a local 3637
administration competency certification program to certify 3638
institutions of higher education to administer capital facilities 3639

projects pursuant to section 3345.51 of the Revised Code without 3640
the supervision, control, or approval of the ~~department of~~ 3641
~~administrative services~~ commission. The program shall offer 3642
instruction in the administration of capital facilities projects 3643
for employees of institutions of higher education who are 3644
responsible for such administration and who are selected by their 3645
employing institutions to participate in the program. 3646

(C) The program shall provide instruction about the 3647
provisions of Chapters 9., 123., and 153. of the Revised Code and 3648
any rules or policies adopted by the ~~department~~ commission 3649
regarding the planning, design, and construction of capital 3650
facilities, including all of the following: 3651

- (1) The planning, design, and construction process; 3652
- (2) Contract requirements; 3653
- (3) Construction management; 3654
- (4) Project management. 3655

(D) The ~~state architect~~ commission shall award local 3656
administration competency certification to any institution of 3657
higher education if all of the following apply: 3658

(1) The institution applied for certification on a form and 3659
in a manner prescribed by the ~~state architect~~ commission. 3660

(2) The ~~state architect~~ commission determines that a 3661
sufficient number of the institution's employees, representing a 3662
sufficient number of employee classifications, responsible for the 3663
administration of capital facilities projects have successfully 3664
completed the certification program to ensure that any capital 3665
facilities project undertaken by the institution will be 3666
administered successfully and in accordance with all provisions of 3667
the Revised Code, and the board of trustees of the institution 3668
provides written assurance to the ~~state architect~~ commission that 3669

the institution will select new employees to participate in the 3670
certification program as necessary to compensate for employee 3671
turnover. 3672

(3) The ~~state architect~~ commission determines that the 3673
employees of the institution enrolled in the program demonstrate 3674
successful completion of the competency certification training and 3675
a satisfactory level of knowledge of and competency in the 3676
requirements for administering capital facilities projects. 3677

(4) The institution pays the fee prescribed by division (F) 3678
of this section. 3679

(5) The board of trustees of the institution provides written 3680
assurance to the ~~state architect~~ commission that the institution 3681
will conduct biennial audits of the institution's administration 3682
of capital facilities projects in accordance with division (C) of 3683
section 3345.51 of the Revised Code. 3684

(6) The board of trustees of the institution agrees in 3685
writing to indemnify and hold harmless the state and the 3686
~~department~~ commission for any claim of injury, loss, or damage 3687
that results from the institution's administration of a capital 3688
facilities project. 3689

(E) Local administration competency certification granted 3690
under this section shall remain in effect for as long as the ~~state~~ 3691
~~architect~~ commission determines that both of the following apply: 3692

(1) The institution of higher education maintains a 3693
sufficient number of employees responsible for the administration 3694
of capital facilities projects who have successfully completed the 3695
certification program and have demonstrated a satisfactory level 3696
of knowledge of and competency in the requirements for 3697
administering capital facilities projects; 3698

(2) The institution is performing the biennial audits 3699
prescribed in division (C) of section 3345.51 of the Revised Code. 3700

If the ~~state architect~~ commission determines that an 3701
institution of higher education has failed to comply with the 3702
conditions of division (E)(1) or (2) of this section, the ~~state~~ 3703
~~architect~~ commission shall revoke the institution's certification 3704
and shall notify the board of trustees of the institution in 3705
writing of the revocation. 3706

(F) The ~~state architect~~ commission shall establish, subject 3707
to the approval of the director of budget and management, the 3708
amount of the fee required to be paid by any institution of higher 3709
education that seeks certification under this section. The amount 3710
of the fees shall be set to cover the costs to implement this 3711
section, including the costs for materials and the competency 3712
certification training sessions. Any fees received under this 3713
section shall be paid into the state treasury to the credit of the 3714
~~state architect's~~ commission's fund established under section 3715
~~123.10~~ 123.201 of the Revised Code. 3716

(G) Nothing in this section shall prohibit an institution 3717
that administers a capital facilities project under section 3718
3345.51 of the Revised Code from requesting guidance or other 3719
services from the ~~department of administrative services~~ 3720
commission. 3721

Sec. 123.26. (A) The executive director of the Ohio 3722
facilities construction commission shall regulate the rate of 3723
tolls to be collected on the construction or improvement of the 3724
public works of the state, and shall fix all rentals and collect 3725
all tolls, rents, fines, commissions, fees, and other revenues 3726
arising from any source in the construction or improvement of the 3727
public works of the state. 3728

(B) Deposits made to the commission's fund in the state 3729
treasury under section 123.201 of the Revised Code shall consist 3730
of money received by the commission under division (A) of this 3731

section, fees paid under section 123.24 of the Revised Code, 3732
transfers of money to the fund authorized by the general assembly, 3733
and such amount of the investment earnings of the administrative 3734
building fund created in division (F) of section 154.24 of the 3735
Revised Code as the director of budget and management determines 3736
to be appropriate and in excess of the amounts required to meet 3737
estimated federal arbitrage rebate requirements. Money in the fund 3738
shall be used by the commission for the following purposes: 3739

(1) To pay personnel and other administrative expenses of the 3740
commission; 3741

(2) To pay the cost of conducting evaluations of public 3742
works; 3743

(3) To pay the cost of building design specifications; 3744

(4) To pay the cost of providing project management services; 3745

(5) To pay the cost of operating the local administration 3746
competency certification program prescribed by section 123.24 of 3747
the Revised Code; and 3748

(6) Any other purposes that the executive director of the 3749
commission determines to be necessary for the commission to 3750
execute its duties under this chapter. 3751

Sec. ~~123.101~~ 123.27. (A) As used in this section: 3752

"Capital facilities project" means the construction, 3753
reconstruction, improvement, enlargement, alteration, or repair of 3754
a building by a public entity. 3755

"Public entity" includes a state agency and a state 3756
institution of higher education. 3757

"State institution of higher education" has the same meaning 3758
as in section 3345.011 of the Revised Code. 3759

(B) Commencing not later than July 1, 2012, and upon 3760

completion of a capital facilities project that is funded wholly 3761
or in part using state funds, each public entity shall submit a 3762
report about the project to the executive director of 3763
~~administrative services~~ the Ohio facilities construction 3764
commission. The report shall be submitted in Ohio administrative 3765
knowledge system capital improvement format or in a manner 3766
determined by the executive director and not later than thirty 3767
days after the project is complete. The report shall provide the 3768
total original contract bid, total cost of change orders, total 3769
actual cost of the project, total costs incurred for mediation and 3770
litigation services, and any other data requested by the executive 3771
director. The first report submitted pursuant to this division 3772
shall include information about any capital facilities project 3773
completed on or after July 1, 2011. Any capital facilities project 3774
that is funded wholly or in part through appropriations made to 3775
the Ohio school facilities commission, the Ohio public works 3776
commission, or the Ohio cultural facilities commission, or for 3777
which a joint use agreement has been entered into with any public 3778
entity, is exempt from the reporting requirement prescribed under 3779
this division. 3780

(C) Commencing not later than July 1, 2012, and annually 3781
thereafter, the attorney general shall report to the executive 3782
director of the Ohio facilities construction commission on any 3783
mediation and litigation costs associated with capital facilities 3784
projects for which a judgment has been rendered. The report shall 3785
be submitted in a manner prescribed by the executive director and 3786
shall contain any information requested by the executive director 3787
related to capital facilities project mediation and litigation 3788
costs. 3789

(D) As soon as practicable after such information is made 3790
available, the executive director of ~~administrative services~~ the 3791
Ohio facilities construction commission shall incorporate the 3792

information reported pursuant to divisions (B) and (C) of this 3793
section into the Ohio administrative knowledge system. 3794

Sec. 124.04. In addition to those powers enumerated in 3795
Chapters 123. and 125. of the Revised Code and as provided 3796
elsewhere by law, the powers, duties, and functions of the 3797
department of administrative services not specifically vested in 3798
and assigned to, or to be performed by, the state personnel board 3799
of review are hereby vested in and assigned to, and shall be 3800
performed by, the director of administrative services. These 3801
powers, duties, and functions shall include, but shall not be 3802
limited to, the following powers, duties, and functions: 3803

(A) To prepare, conduct, and grade all competitive 3804
examinations for positions in the classified ~~state~~ service of the 3805
state; 3806

(B) To prepare, conduct, and grade all noncompetitive 3807
examinations for positions in the classified ~~state~~ service of the 3808
state; 3809

(C) To prepare eligible lists containing the names of persons 3810
qualified for appointment to positions in the classified ~~state~~ 3811
service of the state; 3812

(D) To prepare or amend, in accordance with section 124.14 of 3813
the Revised Code, specifications descriptive of duties, 3814
responsibilities, requirements, and desirable qualifications of 3815
the various classifications of positions in the ~~state~~ service of 3816
the state; 3817

(E) To allocate and reallocate, upon the motion of the 3818
director or upon request of an appointing authority and in 3819
accordance with section 124.14 of the Revised Code, any position, 3820
office, or employment in the ~~state~~ service of the state to the 3821
appropriate classification on the basis of the duties, 3822

responsibilities, requirements, and qualifications of that position, office, or employment; 3823
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(F) To develop and conduct personnel recruitment services and assist appointing authorities in recruiting qualified applicants for positions in the ~~state~~ service of the state; 3825
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(G) To conduct research on specifications, classifications, and salaries of positions in the ~~state~~ service of the state; 3828
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(H) To develop and conduct personnel training programs, including supervisory training programs and best practices plans, and to develop merit hiring processes, in cooperation with appointing authorities for positions in the service of the state; 3830
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(I) To include periodically in communications sent to state employees both of the following: 3834
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(1) Information developed under section 2108.34 of the Revised Code promoting the donation of anatomical gifts under Chapter 2108. of the Revised Code; 3836
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(2) Information about the liver or kidney donor and bone marrow donor leave granted under section 124.139 of the Revised Code. 3839
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(J) To enter into agreements with universities and colleges for in-service training of officers and employees in the civil service ~~and to assist appointing authorities in recruiting qualified applicants~~; 3842
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(K) To appoint examiners, inspectors, clerks, and other assistants necessary in the exercise of the powers and performance of the duties and functions which the director is by law authorized and required to exercise and perform, and to prescribe the duties of all of those employees; 3846
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(L) To maintain a journal, which shall be open to public inspection, in which the director shall keep a record of the 3851
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director's final decision pertaining to the classification or 3853
reclassification of positions in the classified civil service of 3854
the state and assignment or reassignment of employees in the 3855
classified civil service of the state to specific position 3856
classifications; 3857

(M) To delegate any of the powers, functions, or duties 3858
granted or assigned to the director under this chapter to any 3859
other state agency of this state as the director considers 3860
necessary; 3861

(N) To delegate any of the powers, functions, or duties 3862
granted or assigned to the director under this chapter to any 3863
political subdivision with the concurrence of the legislative 3864
authority of the political subdivision. 3865

(O) To administer a state equal employment opportunity 3866
program. 3867

Sec. 124.06. No person shall be appointed, removed, 3868
transferred, laid off, suspended, reinstated, promoted, or reduced 3869
as an officer or employee in the civil service, in any manner or 3870
by any means other than those prescribed in this chapter, and the 3871
rules of the director of administrative services for positions in 3872
the service of the state or the municipal or civil service 3873
township civil service commission within their respective 3874
jurisdictions. 3875

Sec. 124.11. The civil service of the state and the several 3876
counties, cities, civil service townships, city health districts, 3877
general health districts, and city school districts of the state 3878
shall be divided into the unclassified service and the classified 3879
service. 3880

(A) The unclassified service shall comprise the following 3881
positions, which shall not be included in the classified service, 3882

and which shall be exempt from all examinations required by this	3883
chapter:	3884
(1) All officers elected by popular vote or persons appointed	3885
to fill vacancies in those offices;	3886
(2) All election officers as defined in section 3501.01 of	3887
the Revised Code;	3888
(3)(a) The members of all boards and commissions, and heads	3889
of principal departments, boards, and commissions appointed by the	3890
governor or by and with the governor's consent;	3891
(b) The heads of all departments appointed by a board of	3892
county commissioners;	3893
(c) The members of all boards and commissions and all heads	3894
of departments appointed by the mayor, or, if there is no mayor,	3895
such other similar chief appointing authority of any city or city	3896
school district;	3897
Except as otherwise provided in division (A)(17) or (C) of	3898
this section, this chapter does not exempt the chiefs of police	3899
departments and chiefs of fire departments of cities or civil	3900
service townships from the competitive classified service.	3901
(4) The members of county or district licensing boards or	3902
commissions and boards of revision, and not more than five deputy	3903
county auditors;	3904
(5) All officers and employees elected or appointed by either	3905
or both branches of the general assembly, and employees of the	3906
city legislative authority engaged in legislative duties;	3907
(6) All commissioned, warrant, and noncommissioned officers	3908
and enlisted persons in the Ohio organized militia, including	3909
military appointees in the adjutant general's department;	3910
(7)(a) All presidents, business managers, administrative	3911
officers, superintendents, assistant superintendents, principals,	3912

deans, assistant deans, instructors, teachers, and such employees 3913
as are engaged in educational or research duties connected with 3914
the public school system, colleges, and universities, as 3915
determined by the governing body of the public school system, 3916
colleges, and universities; 3917

(b) The library staff of any library in the state supported 3918
wholly or in part at public expense. 3919

(8) Four clerical and administrative support employees for 3920
each of the elective state officers, four clerical and 3921
administrative support employees for each board of county 3922
commissioners and one such employee for each county commissioner, 3923
and four clerical and administrative support employees for other 3924
elective officers and each of the principal appointive executive 3925
officers, boards, or commissions, except for civil service 3926
commissions, that are authorized to appoint such clerical and 3927
administrative support employees; 3928

(9) The deputies and assistants of state agencies authorized 3929
to act for and on behalf of the agency, or holding a fiduciary or 3930
administrative relation to that agency and those persons employed 3931
by and directly responsible to elected county officials or a 3932
county administrator and holding a fiduciary or administrative 3933
relationship to such elected county officials or county 3934
administrator, and the employees of such county officials whose 3935
fitness would be impracticable to determine by competitive 3936
examination, provided that division (A)(9) of this section shall 3937
not affect those persons in county employment in the classified 3938
service as of September 19, 1961. Nothing in division (A)(9) of 3939
this section applies to any position in a county department of job 3940
and family services created pursuant to Chapter 329. of the 3941
Revised Code. 3942

(10) Bailiffs, constables, official stenographers, and 3943
commissioners of courts of record, deputies of clerks of the 3944

courts of common pleas who supervise or who handle public moneys 3945
or secured documents, and such officers and employees of courts of 3946
record and such deputies of clerks of the courts of common pleas 3947
as the ~~director of administrative services~~ appointing authority 3948
finds it impracticable to determine their fitness by competitive 3949
examination; 3950

(11) Assistants to the attorney general, special counsel 3951
appointed or employed by the attorney general, assistants to 3952
county prosecuting attorneys, and assistants to city directors of 3953
law; 3954

(12) Such teachers and employees in the agricultural 3955
experiment stations; such students in normal schools, colleges, 3956
and universities of the state who are employed by the state or a 3957
political subdivision of the state in student or intern 3958
classifications; and such unskilled labor positions as the 3959
director of administrative services, with respect to positions in 3960
the service of the state, or any municipal civil service 3961
commission may find it impracticable to include in the competitive 3962
classified service; provided such exemptions shall be by order of 3963
the commission or the director, duly entered on the record of the 3964
commission or the director with the reasons for each such 3965
exemption; 3966

(13) Any physician or dentist who is a full-time employee of 3967
the department of mental health, the department of developmental 3968
disabilities, or an institution under the jurisdiction of either 3969
department; and physicians who are in residency programs at the 3970
institutions; 3971

(14) Up to twenty positions at each institution under the 3972
jurisdiction of the department of mental health or the department 3973
of developmental disabilities that the department director 3974
determines to be primarily administrative or managerial; and up to 3975
fifteen positions in any division of either department, excluding 3976

administrative assistants to the director and division chiefs,	3977
which are within the immediate staff of a division chief and which	3978
the director determines to be primarily and distinctively	3979
administrative and managerial;	3980
(15) Noncitizens of the United States employed by the state,	3981
or its counties or cities, as physicians or nurses who are duly	3982
licensed to practice their respective professions under the laws	3983
of this state, or medical assistants, in mental or chronic disease	3984
hospitals, or institutions;	3985
(16) Employees of the governor's office;	3986
(17) Fire chiefs and chiefs of police in civil service	3987
townships appointed by boards of township trustees under section	3988
505.38 or 505.49 of the Revised Code;	3989
(18) Executive directors, deputy directors, and program	3990
directors employed by boards of alcohol, drug addiction, and	3991
mental health services under Chapter 340. of the Revised Code, and	3992
secretaries of the executive directors, deputy directors, and	3993
program directors;	3994
(19) Superintendents, and management employees as defined in	3995
section 5126.20 of the Revised Code, of county boards of	3996
developmental disabilities;	3997
(20) Physicians, nurses, and other employees of a county	3998
hospital who are appointed pursuant to sections 339.03 and 339.06	3999
of the Revised Code;	4000
(21) The executive director of the state medical board, who	4001
is appointed pursuant to division (B) of section 4731.05 of the	4002
Revised Code;	4003
(22) County directors of job and family services as provided	4004
in section 329.02 of the Revised Code and administrators appointed	4005
under section 329.021 of the Revised Code;	4006

(23) A director of economic development who is hired pursuant to division (A) of section 307.07 of the Revised Code; 4007
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(24) Chiefs of construction and compliance, of operations and maintenance, of worker protection, and of licensing and certification in the division of ~~labor~~ industrial compliance in the department of commerce; 4009
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(25) The executive director of a county transit system appointed under division (A) of section 306.04 of the Revised Code; 4013
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(26) Up to five positions at each of the administrative departments listed in section 121.02 of the Revised Code and at the department of taxation, department of the adjutant general, department of education, Ohio board of regents, bureau of workers' compensation, industrial commission, state lottery commission, and public utilities commission of Ohio that the head of that administrative department or of that other state agency determines to be involved in policy development and implementation. The head of the administrative department or other state agency shall set the compensation for employees in these positions at a rate that is not less than the minimum compensation specified in pay range 41 but not more than the maximum compensation specified in pay range 44 of salary schedule E-2 in section 124.152 of the Revised Code. The authority to establish positions in the unclassified service under division (A)(26) of this section is in addition to and does not limit any other authority that an administrative department or state agency has under the Revised Code to establish positions, appoint employees, or set compensation. 4016
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(27) Employees of the department of agriculture employed under section 901.09 of the Revised Code; 4034
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(28) For cities, counties, civil service townships, city health districts, general health districts, and city school 4036
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districts, the deputies and assistants of elective or principal 4038
executive officers authorized to act for and in the place of their 4039
principals or holding a fiduciary relation to their principals; 4040

(29) Employees who receive intermittent or temporary 4041
appointments under division (B) of section 124.30 of the Revised 4042
Code; 4043

(30) Employees appointed to administrative staff positions 4044
for which an appointing authority is given specific statutory 4045
authority to set compensation; 4046

(31) Employees appointed to highway patrol cadet or highway 4047
patrol cadet candidate classifications; 4048

(32) Employees placed in the unclassified service by another 4049
section of the Revised Code. 4050

(B) The classified service shall comprise all persons in the 4051
employ of the state and the several counties, cities, city health 4052
districts, general health districts, and city school districts of 4053
the state, not specifically included in the unclassified service. 4054
Upon the creation by the board of trustees of a civil service 4055
township civil service commission, the classified service shall 4056
also comprise, except as otherwise provided in division (A)(17) or 4057
(C) of this section, all persons in the employ of a civil service 4058
township police or fire department having ten or more full-time 4059
paid employees. The classified service consists of two classes, 4060
which shall be designated as the competitive class and the 4061
unskilled labor class. 4062

(1) The competitive class shall include all positions and 4063
employments in the state and the counties, cities, city health 4064
districts, general health districts, and city school districts of 4065
the state, and, upon the creation by the board of trustees of a 4066
civil service township of a township civil service commission, all 4067
positions in a civil service township police or fire department 4068

having ten or more full-time paid employees, for which it is 4069
practicable to determine the merit and fitness of applicants by 4070
competitive examinations. Appointments shall be made to, or 4071
employment shall be given in, all positions in the competitive 4072
class that are not filled by promotion, reinstatement, transfer, 4073
or reduction, as provided in this chapter, and the rules of the 4074
director of administrative services, by appointment from those 4075
certified to the appointing officer in accordance with this 4076
chapter. 4077

(2) The unskilled labor class shall include ordinary 4078
unskilled laborers. Vacancies in the labor class for positions in 4079
service of the state shall be filled by appointment from lists of 4080
applicants registered by the director or the director's designee. 4081
Vacancies in the labor class for all other positions shall be 4082
filled by appointment from lists of applicants registered by a 4083
commission. The director or the commission, as applicable, by 4084
rule, shall require an applicant for registration in the labor 4085
class to furnish evidence or take tests as the director or 4086
commission considers proper with respect to age, residence, 4087
physical condition, ability to labor, honesty, sobriety, industry, 4088
capacity, and experience in the work or employment for which 4089
application is made. Laborers who fulfill the requirements shall 4090
be placed on the eligible list for the kind of labor or employment 4091
sought, and preference shall be given in employment in accordance 4092
with the rating received from that evidence or in those tests. 4093
Upon the request of an appointing officer, stating the kind of 4094
labor needed, the pay and probable length of employment, and the 4095
number to be employed, the director or commission, as applicable, 4096
shall certify from the highest on the list double the number to be 4097
employed; from this number, the appointing officer shall appoint 4098
the number actually needed for the particular work. If more than 4099
one applicant receives the same rating, priority in time of 4100
application shall determine the order in which their names shall 4101

be certified for appointment. 4102

(C) A municipal or civil service township civil service 4103
commission may place volunteer firefighters who are paid on a 4104
fee-for-service basis in either the classified or the unclassified 4105
civil service. 4106

(D)(1) This division does not apply to persons in the 4107
unclassified service who have the right to resume positions in the 4108
classified service under sections 4121.121, 5119.071, 5120.38, 4109
5120.381, 5120.382, 5123.08, 5139.02, and 5501.19 of the Revised 4110
Code. 4111

~~An appointing authority whose employees are paid directly by 4112
warrant of the director of budget and management may appoint a 4113
person who holds a certified position in the classified service 4114
within the appointing authority's agency to a position in the 4115
unclassified service within that agency. (2) A person appointed 4116
pursuant to this division who holds a position in the classified 4117
service and who is appointed to a position in the unclassified 4118
service shall retain the right to resume the position and status 4119
held by the person in the classified service immediately prior to 4120
the person's appointment to the position in the unclassified 4121
service, regardless of the number of positions the person held in 4122
the unclassified service. An employee's right to resume a position 4123
in the classified service may only be exercised when an appointing 4124
authority demotes the employee to a pay range lower than the 4125
employee's current pay range or revokes the employee's appointment 4126
to the unclassified service- and: 4127~~

(a) That person held a certified position prior to July 1, 4128
2007, in the classified service within the appointing authority's 4129
agency; or 4130

(b) That person held a permanent position on or after July 1, 4131
2007, in the classified service within the appointing authority's 4132

agency. 4133

(3) An employee forfeits the right to resume a position in 4134
the classified service when ~~the~~: 4135

(a) The employee is removed from the position in the 4136
unclassified service due to incompetence, inefficiency, 4137
dishonesty, drunkenness, immoral conduct, insubordination, 4138
discourteous treatment of the public, neglect of duty, violation 4139
of this chapter or the rules of the director of administrative 4140
services, any other failure of good behavior, any other acts of 4141
misfeasance, malfeasance, or nonfeasance in office, or conviction 4142
of a felony. ~~An employee also forfeits the right to resume a~~ 4143
~~position in the classified service upon; or~~ 4144

(b) Upon transfer to a different agency. 4145

(4) Reinstatement to a position in the classified service 4146
shall be to a position substantially equal to that position in the 4147
classified service held previously, as certified by the director 4148
of administrative services. If the position the person previously 4149
held in the classified service has been placed in the unclassified 4150
service or is otherwise unavailable, the person shall be appointed 4151
to a position in the classified service within the appointing 4152
authority's agency that the director of administrative services 4153
certifies is comparable in compensation to the position the person 4154
previously held in the classified service. Service in the position 4155
in the unclassified service shall be counted as service in the 4156
position in the classified service held by the person immediately 4157
prior to the person's appointment to the position in the 4158
unclassified service. When a person is reinstated to a position in 4159
the classified service as provided in this division, the person is 4160
entitled to all rights, status, and benefits accruing to the 4161
position in the classified service during the person's time of 4162
service in the position in the unclassified service. 4163

Sec. 124.12. (A) Within ninety days after an appointing authority appoints an employee to an unclassified position in the service of the state, the appointing authority shall notify the department of administrative services of that appointment.

(B) On the date an appointing authority appoints an employee to an unclassified position in the state service, the appointing authority shall provide the employee with written information describing the nature of employment in the unclassified civil service. Within thirty days after the date an appointing authority appoints an employee to an unclassified position in the state service, the appointing authority shall provide the employee with written information describing the duties of that position. Failure of the appointing authority to provide the written information described in this division to the employee does not confer any additional rights upon the employee in any appellate body with jurisdiction over an appeal of the employee.

(C) The department shall develop and provide each appointing authority in the ~~state~~ service of the state with a general written description of the nature of employment in the unclassified civil service that shall be provided to employees under division (B) of this section.

Sec. 124.14. (A)(1) The director of administrative services shall establish, and may modify or rescind, by rule, a job classification plan for all positions, offices, and employments the salaries of which are paid in whole or in part by the state. The director shall group jobs within a classification so that the positions are similar enough in duties and responsibilities to be described by the same title, to have the same pay assigned with equity, and to have the same qualifications for selection applied. The director shall, by rule, assign a classification title to each classification within the classification plan. However, the

director shall consider in establishing classifications, including 4195
classifications with parenthetical titles, and assigning pay 4196
ranges such factors as duties performed only on one shift, special 4197
skills in short supply in the labor market, recruitment problems, 4198
separation rates, comparative salary rates, the amount of training 4199
required, and other conditions affecting employment. The director 4200
shall describe the duties and responsibilities of the class, 4201
establish the qualifications for being employed in each position 4202
in the class, and file with the secretary of state a copy of 4203
specifications for all of the classifications. The director shall 4204
file new, additional, or revised specifications with the secretary 4205
of state before they are used. 4206

The director shall, by rule, assign each classification, 4207
either on a statewide basis or in particular counties or state 4208
institutions, to a pay range established under section 124.15 or 4209
section 124.152 of the Revised Code. The director may assign a 4210
classification to a pay range on a temporary basis for a period of 4211
six months. The director may establish, by rule adopted under 4212
Chapter 119. of the Revised Code, experimental classification 4213
plans for some or all employees paid directly by warrant of the 4214
director of budget and management. The rule shall include 4215
specifications for each classification within the plan and shall 4216
specifically address compensation ranges, and methods for 4217
advancing within the ranges, for the classifications, which may be 4218
assigned to pay ranges other than the pay ranges established under 4219
section 124.15 or 124.152 of the Revised Code. 4220

(2) The director of administrative services may reassign to a 4221
proper classification those positions that have been assigned to 4222
an improper classification. If the compensation of an employee in 4223
such a reassigned position exceeds the maximum rate of pay for the 4224
employee's new classification, the employee shall be placed in pay 4225
step X and shall not receive an increase in compensation until the 4226

maximum rate of pay for that classification exceeds the employee's 4227
compensation. 4228

(3) The director may reassign an exempt employee, as defined 4229
in section 124.152 of the Revised Code, to a bargaining unit 4230
classification if the director determines that the bargaining unit 4231
classification is the proper classification for that employee. 4232
Notwithstanding Chapter 4117. of the Revised Code or instruments 4233
and contracts negotiated under it, these placements are at the 4234
director's discretion. 4235

(4) The director shall, by rule, assign related 4236
classifications, which form a career progression, to a 4237
classification series. The director shall, by rule, assign each 4238
classification in the classification plan a five-digit number, the 4239
first four digits of which shall denote the classification series 4240
to which the classification is assigned. When a career progression 4241
encompasses more than ten classifications, the director shall, by 4242
rule, identify the additional classifications belonging to a 4243
classification series. The additional classifications shall be 4244
part of the classification series, notwithstanding the fact that 4245
the first four digits of the number assigned to the additional 4246
classifications do not correspond to the first four digits of the 4247
numbers assigned to other classifications in the classification 4248
series. 4249

~~(5) The director may establish, modify, or rescind a 4250
classification plan for county agencies that elect not to use the 4251
services and facilities of a county personnel department. The 4252
director shall establish any such classification plan by means of 4253
rules adopted under Chapter 119. of the Revised Code. The rules 4254
shall include a methodology for the establishment of titles unique 4255
to county agencies, the use of state classification titles and 4256
classification specifications for common positions, the criteria 4257
for a county to meet in establishing its own classification plan, 4258~~

~~and the establishment of what constitutes a classification series 4259
for county agencies. The director may assess a county agency that 4260
chooses to use the classification plan a usage fee the director 4261
determines. All usage fees the department of administrative 4262
services receives shall be paid into the state treasury to the 4263
credit of the human resources fund created in section 124.07 of 4264
the Revised Code. 4265~~

(B) Division (A) of this section and sections 124.15 and 4266
124.152 of the Revised Code do not apply to the following persons, 4267
positions, offices, and employments: 4268

(1) Elected officials; 4269

(2) Legislative employees, employees of the legislative 4270
service commission, employees in the office of the governor, 4271
employees who are in the unclassified civil service and exempt 4272
from collective bargaining coverage in the office of the secretary 4273
of state, auditor of state, treasurer of state, and attorney 4274
general, and employees of the supreme court; 4275

(3) Employees of a county children services board that 4276
establishes compensation rates under section 5153.12 of the 4277
Revised Code; 4278

(4) Any position for which the authority to determine 4279
compensation is given by law to another individual or entity; 4280

(5) Employees of the bureau of workers' compensation whose 4281
compensation the administrator of workers' compensation 4282
establishes under division (B) of section 4121.121 of the Revised 4283
Code. 4284

(C) The director may employ a consulting agency to aid and 4285
assist the director in carrying out this section. 4286

(D)(1) When the director proposes to modify a classification 4287
or the assignment of classes to appropriate pay ranges, the 4288

director shall send written notice of the proposed rule to the 4289
appointing authorities of the affected employees thirty days 4290
before a hearing on the proposed rule. The appointing authorities 4291
shall notify the affected employees regarding the proposed rule. 4292
The director also shall send those appointing authorities notice 4293
of any final rule that is adopted within ten days after adoption. 4294

(2) When the director proposes to reclassify any employee so 4295
that the employee is adversely affected, the director shall give 4296
to the employee affected and to the employee's appointing 4297
authority a written notice setting forth the proposed new 4298
classification, pay range, and salary. Upon the request of any 4299
classified employee in the service of the state who is not serving 4300
in a probationary period, the director shall perform a job audit 4301
to review the classification of the employee's position to 4302
determine whether the position is properly classified. The 4303
director shall give to the employee affected and to the employee's 4304
appointing authority a written notice of the director's 4305
determination whether or not to reclassify the position or to 4306
reassign the employee to another classification. An employee or 4307
appointing authority desiring a hearing shall file a written 4308
request for the hearing with the state personnel board of review 4309
within thirty days after receiving the notice. The board shall set 4310
the matter for a hearing and notify the employee and appointing 4311
authority of the time and place of the hearing. The employee, the 4312
appointing authority, or any authorized representative of the 4313
employee who wishes to submit facts for the consideration of the 4314
board shall be afforded reasonable opportunity to do so. After the 4315
hearing, the board shall consider anew the reclassification and 4316
may order the reclassification of the employee and require the 4317
director to assign the employee to such appropriate classification 4318
as the facts and evidence warrant. As provided in division (A)(1) 4319
of section 124.03 of the Revised Code, the board may determine the 4320
most appropriate classification for the position of any employee 4321

coming before the board, with or without a job audit. The board 4322
shall disallow any reclassification or reassignment classification 4323
of any employee when it finds that changes have been made in the 4324
duties and responsibilities of any particular employee for 4325
political, religious, or other unjust reasons. 4326

(E)(1) Employees of each county department of job and family 4327
services shall be paid a salary or wage established by the board 4328
of county commissioners. The provisions of section 124.18 of the 4329
Revised Code concerning the standard work week apply to employees 4330
of county departments of job and family services. A board of 4331
county commissioners may do either of the following: 4332

(a) Notwithstanding any other section of the Revised Code, 4333
supplement the sick leave, vacation leave, personal leave, and 4334
other benefits of any employee of the county department of job and 4335
family services of that county, if the employee is eligible for 4336
the supplement under a written policy providing for the 4337
supplement; 4338

(b) Notwithstanding any other section of the Revised Code, 4339
establish alternative schedules of sick leave, vacation leave, 4340
personal leave, or other benefits for employees not inconsistent 4341
with the provisions of a collective bargaining agreement covering 4342
the affected employees. 4343

(2) Division (E)(1) of this section does not apply to 4344
employees for whom the state employment relations board 4345
establishes appropriate bargaining units pursuant to section 4346
4117.06 of the Revised Code, except in either of the following 4347
situations: 4348

(a) The employees for whom the state employment relations 4349
board establishes appropriate bargaining units elect no 4350
representative in a board-conducted representation election. 4351

(b) After the state employment relations board establishes 4352

appropriate bargaining units for such employees, all employee 4353
organizations withdraw from a representation election. 4354

(F)(1) Notwithstanding any contrary provision of sections 4355
124.01 to 124.64 of the Revised Code, the board of trustees of 4356
each state university or college, as defined in section 3345.12 of 4357
the Revised Code, shall carry out all matters of governance 4358
involving the officers and employees of the university or college, 4359
including, but not limited to, the powers, duties, and functions 4360
of the department of administrative services and the director of 4361
administrative services specified in this chapter. Officers and 4362
employees of a state university or college shall have the right of 4363
appeal to the state personnel board of review as provided in this 4364
chapter. 4365

(2) Each board of trustees shall adopt rules under section 4366
111.15 of the Revised Code to carry out the matters of governance 4367
described in division (F)(1) of this section. Until the board of 4368
trustees adopts those rules, a state university or college shall 4369
continue to operate pursuant to the applicable rules adopted by 4370
the director of administrative services under this chapter. 4371

(G)(1) Each board of county commissioners may, by a 4372
resolution adopted by a majority of its members, establish a 4373
county personnel department to exercise the powers, duties, and 4374
functions specified in division (G) of this section. As used in 4375
division (G) of this section, "county personnel department" means 4376
a county personnel department established by a board of county 4377
commissioners under division (G)(1) of this section. 4378

(2)(a) Each board of county commissioners, by a resolution 4379
adopted by a majority of its members, may designate the county 4380
personnel department of the county to exercise the powers, duties, 4381
and functions specified in sections 124.01 to 124.64 and Chapter 4382
325. of the Revised Code with regard to employees in the service 4383
of the county, except for the powers and duties of the state 4384

personnel board of review, which powers and duties shall not be 4385
construed as having been modified or diminished in any manner by 4386
division (G)(2) of this section, with respect to the employees for 4387
whom the board of county commissioners is the appointing authority 4388
or co-appointing authority. 4389

(b) Nothing in division (G)(2) of this section shall be 4390
construed to limit the right of any employee who possesses the 4391
right of appeal to the state personnel board of review to continue 4392
to possess that right of appeal. 4393

(c) Any board of county commissioners that has established a 4394
county personnel department may contract with the department of 4395
administrative services, in accordance with division (H) of this 4396
section, another political subdivision, or an appropriate public 4397
or private entity to provide competitive testing services or other 4398
appropriate services. 4399

(3) After the county personnel department of a county has 4400
been established as described in division (G)(2) of this section, 4401
any elected official, board, agency, or other appointing authority 4402
of that county, upon written notification to the county personnel 4403
department, may elect to use the services and facilities of the 4404
county personnel department. Upon receipt of the notification by 4405
the county personnel department, the county personnel department 4406
shall exercise the powers, duties, and functions as described in 4407
division (G)(2) of this section with respect to the employees of 4408
that elected official, board, agency, or other appointing 4409
authority. 4410

(4) Each board of county commissioners, by a resolution 4411
adopted by a majority of its members, may disband the county 4412
personnel department. 4413

(5) Any elected official, board, agency, or appointing 4414
authority of a county may end its involvement with a county 4415

personnel department upon actual receipt by the department of a 4416
certified copy of the notification that contains the decision to 4417
no longer participate. 4418

~~(6) The director of administrative services may, by rule 4419
adopted in accordance with Chapter 119. of the Revised Code,
prescribe criteria and procedures for the following: 4420
4421~~

~~(a) A requirement that each county personnel department, in 4422
carrying out its duties, shall adhere to merit system principles 4423
with regard to employees of county departments of job and family 4424
services, child support enforcement agencies, and public child 4425
welfare agencies so that there is no threatened loss of federal 4426
funding for these agencies, and a requirement that the county be 4427
is financially liable to the state for any loss of federal funds 4428
due to the action or inaction of the county personnel department. 4429
The costs associated with audits conducted to monitor compliance 4430
with division (G)(6)(a) of this section shall be reimbursed to the 4431
department of administrative services as determined by the 4432
director. All money the department receives for these audits shall 4433
be paid into the state treasury to the credit of the human 4434
resources fund created in section 124.07 of the Revised Code. 4435~~

~~(b) Authorization for the director of administrative services 4436
to conduct periodic audits and reviews of county personnel 4437
departments to guarantee the uniform application of the powers,
duties, and functions exercised pursuant to division (G)(2)(a) of 4438
this section. The costs of the audits and reviews shall be 4439
reimbursed to the department of administrative services as 4440
determined by the director by the county for which the services 4441
are performed. All money the department receives shall be paid 4442
into the state treasury to the credit of the human resources fund 4443
created in section 124.07 of the Revised Code. 4444
4445~~

(H) County agencies may contract with the department of 4446
administrative services for any human resources services, 4447

including, but not limited to, establishment and modification of 4448
job classification plans, competitive testing services, and 4449
periodic audits and reviews to guarantee the county's uniform 4450
application of the powers, duties, and functions specified in 4451
sections 124.01 to 124.64 and Chapter 325. of the Revised Code 4452
with regard to employees in the service of the county. Nothing in 4453
this division modifies the powers and duties of the state 4454
personnel board of review with respect to employees in the service 4455
of the county. Nothing in this division limits the right of any 4456
employee who possesses the right of appeal to the state personnel 4457
board of review to continue to possess that right of appeal. 4458

(I) The director of administrative services shall establish 4459
the rate and method of compensation for all employees who are paid 4460
directly by warrant of the director of budget and management and 4461
who are serving in positions that the director of administrative 4462
services has determined impracticable to include in the state job 4463
classification plan. This division does not apply to elected 4464
officials, legislative employees, employees of the legislative 4465
service commission, employees who are in the unclassified civil 4466
service and exempt from collective bargaining coverage in the 4467
office of the secretary of state, auditor of state, treasurer of 4468
state, and attorney general, employees of the courts, employees of 4469
the bureau of workers' compensation whose compensation the 4470
administrator of workers' compensation establishes under division 4471
(B) of section 4121.121 of the Revised Code, or employees of an 4472
appointing authority authorized by law to fix the compensation of 4473
those employees. 4474

~~(I)~~(J) The director of administrative services shall set the 4475
rate of compensation for all intermittent, seasonal, temporary, 4476
emergency, and casual employees in the service of the state who 4477
are not considered public employees under section 4117.01 of the 4478
Revised Code. Those employees are not entitled to receive employee 4479

benefits. This rate of compensation shall be equitable in terms of 4480
the rate of employees serving in the same or similar 4481
classifications. This division does not apply to elected 4482
officials, legislative employees, employees of the legislative 4483
service commission, employees who are in the unclassified civil 4484
service and exempt from collective bargaining coverage in the 4485
office of the secretary of state, auditor of state, treasurer of 4486
state, and attorney general, employees of the courts, employees of 4487
the bureau of workers' compensation whose compensation the 4488
administrator establishes under division (B) of section 4121.121 4489
of the Revised Code, or employees of an appointing authority 4490
authorized by law to fix the compensation of those employees. 4491

Sec. 124.231. (A) As used in this section, "legally blind 4492
person" means any person who qualifies as being blind under any 4493
Ohio or federal statute, or any rule adopted thereunder. As used 4494
in this section, "legally deaf person" means any person who 4495
qualifies as being deaf under any Ohio or federal statute, or any 4496
rule adopted thereunder. 4497

(B) When an examination is to be administered under sections 4498
124.01 to ~~124.64~~ 124.31 of the Revised Code, the director of 4499
administrative services or the director's designee shall whenever 4500
practicable arrange for special examinations to be administered to 4501
legally blind or legally deaf persons applying for positions in 4502
the classified service of the state to ensure that the abilities 4503
of such applicants are properly assessed and that such applicants 4504
are not subject to discrimination because they are legally blind 4505
or legally deaf persons. 4506

Sec. 124.241. As used in this section, "professional 4507
employee" has the same meaning as in section 5126.20 of the 4508
Revised Code and "registered service employee" means a service 4509
employee, as defined in section 5126.20 of the Revised Code, who 4510

is registered under section 5126.25 of the Revised Code. 4511

County boards of developmental disabilities may hire 4512
professional employees and registered service employees in the 4513
classified service on the basis of the candidates' qualifications 4514
rather than on the basis of the results of ~~an a civil service~~ 4515
~~examination administered by the director of administrative~~ 4516
~~services pursuant to section 124.23 of the Revised Code.~~ 4517

Sec. 124.25. The director of administrative services shall 4518
require persons applying for an examination for original 4519
appointment in the service of the state to file with the director 4520
or the director's designee, within reasonable time prior to the 4521
examination, a formal application, in which the applicant shall 4522
state the applicant's name, address, and such other information as 4523
may reasonably be required concerning the applicant's education 4524
and experience. No inquiry shall be made as to religious or 4525
political affiliations or as to racial or ethnic origin of the 4526
applicant, except as necessary to gather equal employment 4527
opportunity or other statistics that, when compiled, will not 4528
identify any specific individual. 4529

Blank forms for applications shall be furnished by the 4530
director or the director's designee without charge to any person 4531
requesting the same. The director or the director's designee may 4532
require in connection with such application such certificate of 4533
persons having knowledge of the applicant as the good of the 4534
service demands. The director or the director's designee may 4535
refuse to appoint or examine an applicant, or, after an 4536
examination, refuse to certify the applicant as eligible, who is 4537
found to lack any of the established preliminary requirements for 4538
the examination, who is addicted to the habitual use of 4539
intoxicating liquors or drugs to excess, who has a pattern of poor 4540
work habits and performance with previous employers, who has been 4541

convicted of a felony, who has been guilty of infamous or 4542
notoriously disgraceful conduct, who has been dismissed from 4543
either branch of the civil service for delinquency or misconduct, 4544
or who has made false statements of any material fact, or 4545
practiced, or attempted to practice, any deception or fraud in the 4546
application or examination, in establishing eligibility, or 4547
securing an appointment. 4548

Sec. 124.26. From the returns of ~~the~~ examinations for 4549
positions in the service of the state, the director of 4550
administrative services or the director's designee shall prepare 4551
an eligible list of the persons whose general average standing 4552
upon examinations for the class or position is not less than the 4553
minimum fixed by the rules of the director, and who are otherwise 4554
eligible. Those persons shall take rank upon the eligible list as 4555
candidates in the order of their relative excellence as determined 4556
by the examination without reference to priority of the time of 4557
examination. If two or more applicants receive the same mark in an 4558
open competitive examination, priority in the time of filing the 4559
application with the director or the director's designee shall 4560
determine the order in which their names shall be placed on the 4561
eligible list, except that applicants eligible for veteran's 4562
preference under section 124.23 of the Revised Code shall receive 4563
priority in rank on the eligible list over nonveterans on the list 4564
with a rating equal to that of the veteran. Ties among veterans 4565
shall be decided by priority of filing the application. 4566

- An eligible list expires upon the filling or closing of the 4567
position. An expired eligible list may be used to fill a position 4568
of the same classification within the same appointing authority 4569
for which the list was created. But, in no event shall an expired 4570
list be used more than one year past its expiration date. 4571

Sec. 124.27. (A) Appointments to all positions in the 4572

classified civil service of the state, that are not filled by 4573
promotion, transfer, or reduction, as provided in sections 124.01 4574
to 124.64 of the Revised Code and the rules of the director 4575
prescribed under those sections, shall be made only from those 4576
persons whose names take rank order on an eligible list, and no 4577
employment, except as provided in those sections, shall be 4578
otherwise given in the classified civil service of this state ~~or~~ 4579
~~any political subdivision of the state~~. The appointing authority 4580
shall appoint in the following manner: each time a selection is 4581
made, it shall be from one of the names that ranks in the top 4582
twenty-five per cent of the eligible list. But, in the event that 4583
ten or fewer names are on the eligible list, the appointing 4584
authority may select any of the listed candidates, or if the top 4585
twenty-five per cent of the eligible list is ten or fewer names, 4586
the appointing authority may select from one of the names that 4587
rank in the top ten of the eligible list. Each person who 4588
qualifies for the veteran's preference under section 124.23 of the 4589
Revised Code, who is a resident of this state, and whose name is 4590
on the eligible list for a position is entitled to preference in 4591
original appointment to any such competitive position in the 4592
classified civil service of the state ~~and its civil divisions~~ over 4593
all other persons who are eligible for those appointments and who 4594
are standing on the relevant eligible list with a rating equal to 4595
that of the person qualifying for the veteran's preference. 4596

(B) All original and promotional appointments in the civil 4597
service of the state, including appointments made pursuant to 4598
section 124.30 of the Revised Code, but not intermittent 4599
appointments, shall be for a probationary period, not less than 4600
sixty days nor more than one year, to be fixed by the rules of the 4601
director, except as provided in section 124.231 of the Revised 4602
Code, and except for original appointments to a police department 4603
as a police officer or to a fire department as a firefighter which 4604
shall be for a probationary period of one year. No appointment or 4605

promotion is final until the appointee has satisfactorily served 4606
the probationary period. If the service of the probationary 4607
employee is unsatisfactory, the employee may be removed or reduced 4608
at any time during the probationary period. If the appointing 4609
authority decides to remove a probationary employee in the service 4610
of the state, the appointing authority shall communicate the 4611
removal to the director. A probationary employee duly removed or 4612
reduced in position for unsatisfactory service does not have the 4613
right to appeal the removal or reduction under section 124.34 of 4614
the Revised Code. 4615

Sec. 124.30. (A) ~~Positions~~ Classified positions in the 4616
classified civil service of the state may be filled without 4617
competition as follows: 4618

(1) Whenever there are urgent reasons for filling a vacancy 4619
in any position in the classified civil service of the state and 4620
the director of administrative services is unable to certify to 4621
the appointing authority, upon its request, a list of persons 4622
eligible for appointment to the position after a competitive 4623
examination, the appointing authority may fill the position by 4624
noncompetitive examination. 4625

A temporary appointment may be made without regard to the 4626
rules of sections 124.01 to 124.64 of the Revised Code. Except as 4627
otherwise provided in this division, the temporary appointment may 4628
not continue longer than one hundred twenty days, and in no case 4629
shall successive temporary appointments be made. A temporary 4630
appointment longer than one hundred twenty days may be made if 4631
necessary by reason of sickness, disability, or other approved 4632
leave of absence of regular officers or employees, in which case 4633
it may continue during the period of sickness, disability, or 4634
other approved leave of absence, subject to the rules of the 4635
director. 4636

(2) In case of a vacancy in a position in the classified 4637
civil service of the state where peculiar and exceptional 4638
qualifications of a scientific, managerial, professional, or 4639
educational character are required, and upon satisfactory evidence 4640
that for specified reasons competition in this special case is 4641
impracticable and that the position can best be filled by a 4642
selection of some designated person of high and recognized 4643
attainments in those qualities, the director may suspend the 4644
provisions of sections 124.01 to 124.64 of the Revised Code that 4645
require competition in this special case, but no suspension shall 4646
be general in its application. All such cases of suspension shall 4647
be reported in the annual report of the director with the reasons 4648
for each suspension. The director shall suspend the provisions 4649
when the director of job and family services provides the 4650
certification under section 5101.051 of the Revised Code that a 4651
position with the department of job and family services can best 4652
be filled if the provisions are suspended. 4653

(3) The acceptance or refusal by an eligible person of a 4654
temporary appointment shall not affect the person's standing on 4655
the eligible list for permanent appointment, nor shall the period 4656
of temporary service be counted as a part of the probationary 4657
service in case of subsequent appointment to a permanent position. 4658

(B) Persons who receive temporary or intermittent 4659
appointments are in the unclassified civil service and serve at 4660
the pleasure of their appointing authority. 4661

Sec. 124.31. Vacancies in positions in the classified civil 4662
service of the state shall be filled insofar as practicable by 4663
promotions. The director of administrative services shall provide 4664
in the director's rules for keeping a record of efficiency for 4665
each employee in the classified civil service of the state, and 4666
for making promotions in the classified civil service of the state 4667

on the basis of merit and by conduct and capacity in office. 4668

Sec. 125.082. (A) When purchasing equipment, materials, or 4669
supplies, the general assembly; the offices of all elected state 4670
officers; all departments, boards, offices, commissions, agencies, 4671
institutions, including, without limitation, state-supported 4672
institutions of higher education, and other instrumentalities of 4673
this state; the supreme court; all courts of appeals; and all 4674
courts of common pleas, may purchase recycled products in 4675
accordance with the guidelines adopted under division (B) of this 4676
section if the products are available and meet the performance 4677
specifications of the procuring entities. Purchases of recycled 4678
products shall comply with any rules adopted under division (C) of 4679
this section. 4680

(B) The director of administrative services shall adopt rules 4681
in accordance with Chapter 119. of the Revised Code establishing 4682
guidelines for the procurement of recycled products pursuant to 4683
division (A) of this section. To the extent practicable, the 4684
guidelines shall do all of the following: 4685

(1) Be consistent with and substantially equivalent to any 4686
relevant regulations adopted by the administrator of the United 4687
States environmental protection agency pursuant to the "Resource 4688
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 4689
6921, as amended; 4690

(2) Establish the minimum percentage of recycled materials 4691
the various products shall contain in order to be considered 4692
"recycled" for the purposes of division (A) of this section; 4693

(3) So far as practicable and economically feasible, 4694
incorporate specifications for recycled-content materials to 4695
promote the use and purchase of recycled products by state 4696
agencies. 4697

(C) The director may adopt rules in accordance with Chapter 4698
119. of the Revised Code establishing a maximum percentage by 4699
which the cost of recycled products purchased under division (A) 4700
of this section may exceed the cost of comparable products made of 4701
virgin materials. 4702

(D) The department of administrative services and the 4703
~~department of natural resources~~ environmental protection agency 4704
annually shall prepare and submit to the governor, president of 4705
the senate, and speaker of the house of representatives a report 4706
that describes, so far as practicable, the value and types of 4707
recycled products that are purchased with moneys disbursed from 4708
the state treasury by the general assembly; the offices of all 4709
elected state officers; and all departments, boards, offices, 4710
commissions, agencies, and institutions of this state. 4711

Sec. 125.14. (A) The director of administrative services 4712
shall allocate any proceeds from the transfer, sale, or lease of 4713
excess and surplus supplies in the following manner: 4714

(1) Except as otherwise provided in division (A)(2) of this 4715
section, the proceeds of such a transfer, sale, or lease shall be 4716
paid into the state treasury to the credit of the investment 4717
recovery fund, which is hereby created. 4718

(2) Except as otherwise provided in division (A)(2) of this 4719
section, when supplies originally were purchased with funds from 4720
nongeneral revenue fund sources, the director shall determine what 4721
fund or account originally was used to purchase the supplies, and 4722
the credit for the proceeds from any transfer, sale, or lease of 4723
those supplies shall be transferred to that fund or account. If 4724
the director cannot determine which fund or account originally was 4725
used to purchase the supplies, if the fund or account is no longer 4726
active, or if the proceeds from the transfer, sale, or lease of a 4727
unit of supplies are less than one hundred dollars or any larger 4728

amount the director may establish with the approval of the 4729
director of budget and management, then the proceeds from the 4730
transfer, sale, or lease of such supplies shall be paid into the 4731
state treasury to the credit of the investment recovery fund. 4732

(B) The investment recovery fund shall be used to pay for the 4733
operating expenses of the state surplus property program. Any 4734
amounts in excess of these operating expenses shall periodically 4735
be transferred to the general revenue fund of the state. If 4736
proceeds paid into the investment recovery fund are insufficient 4737
to pay for the program's operating expenses, a service fee may be 4738
charged to state agencies to eliminate the deficit. 4739

(C) Proceeds from the sale of recyclable goods and materials 4740
shall be paid into the state treasury to the credit of the 4741
recycled materials fund, which is hereby created, except that the 4742
director of ~~natural resources~~ environmental protection, upon 4743
request, may grant an exemption from this requirement. The ~~chief~~ 4744
~~of the division of recycling and litter prevention in the~~ 4745
~~department of natural resources~~ director shall administer the fund 4746
for the benefit of recycling programs in state agencies. 4747

Sec. 126.14. The release of any money appropriated for the 4748
purchase of real estate shall be approved by the controlling 4749
board. The release of money appropriated for all other capital 4750
projects is also subject to the approval of the controlling board, 4751
except that the director of budget and management may approve the 4752
release of money appropriated for specific projects in accordance 4753
with the requirements of this section and except that the director 4754
of budget and management may approve the release of unencumbered 4755
capital balances, for a project to repair, remove, or prevent a 4756
public exigency declared to exist by the director of 4757
administrative services under section ~~123.15~~ 123.10 of the Revised 4758
Code, or by the executive director of the Ohio facilities 4759

construction commission under section 123.23 of the Revised Code, 4760
in the amount designated in that declaration. 4761

Within sixty days after the effective date of any act 4762
appropriating money for capital projects, the director shall 4763
determine which appropriations are for general projects and which 4764
are for specific projects. Specific projects may include specific 4765
higher education projects that are to be funded from general 4766
purpose appropriations from the higher education improvement fund 4767
created in section 154.21 of the Revised Code. Upon determining 4768
which projects are general and which are specific, the director 4769
shall submit to the controlling board a list that includes a brief 4770
description of and the estimated expenditures for each specific 4771
project. The release of money for any specific higher education 4772
projects that are to be funded from general purpose appropriations 4773
from the higher education improvement fund but that are not 4774
included on the list, and the release of money for any specific 4775
higher education projects included on the list that will exceed 4776
the estimated expenditures by more than ten per cent, are subject 4777
to the approval of the controlling board. The director may create 4778
new appropriation line items and make transfers of appropriations 4779
to them for specific higher education projects included on the 4780
list that are to be funded from general purpose appropriations for 4781
basic renovations that are made from the higher education 4782
improvement fund. 4783

Sec. 140.01. As used in this chapter: 4784

(A) "Hospital agency" means any public hospital agency or any 4785
nonprofit hospital agency. 4786

(B) "Public hospital agency" means any county, board of 4787
county hospital trustees established pursuant to section 339.02 of 4788
the Revised Code, county hospital commission established pursuant 4789
to section 339.14 of the Revised Code, municipal corporation, new 4790

community authority organized under Chapter 349. of the Revised 4791
Code, joint township hospital district, state or municipal 4792
university or college operating or authorized to operate a 4793
hospital facility, or the state. 4794

(C) "Nonprofit hospital agency" means a corporation or 4795
association not for profit, no part of the net earnings of which 4796
inures or may lawfully inure to the benefit of any private 4797
shareholder or individual, that has authority to own or operate a 4798
hospital facility or provides or is to provide services to one or 4799
more other hospital agencies. 4800

(D) "Governing body" means, in the case of a county, the 4801
board of county commissioners or other legislative body; in the 4802
case of a board of county hospital trustees, the board; in the 4803
case of a county hospital commission, the commission; in the case 4804
of a municipal corporation, the council or other legislative 4805
authority; in the case of a new community authority, its board of 4806
trustees; in the case of a joint township hospital district, the 4807
joint township district hospital board; in the case of a state or 4808
municipal university or college, its board of trustees or board of 4809
directors; in the case of a nonprofit hospital agency, the board 4810
of trustees or other body having general management of the agency; 4811
and, in the case of the state, the director of development or the 4812
Ohio higher educational facility commission. 4813

(E) "Hospital facilities" means buildings, structures and 4814
other improvements, additions thereto and extensions thereof, 4815
furnishings, equipment, and real estate and interests in real 4816
estate, used or to be used for or in connection with one or more 4817
hospitals, emergency, intensive, intermediate, extended, 4818
long-term, or self-care facilities, diagnostic and treatment and 4819
out-patient facilities, facilities related to programs for home 4820
health services, clinics, laboratories, public health centers, 4821
research facilities, and rehabilitation facilities, for or 4822

pertaining to diagnosis, treatment, care, or rehabilitation of 4823
sick, ill, injured, infirm, impaired, disabled, or handicapped 4824
persons, or the prevention, detection, and control of disease, and 4825
also includes education, training, and food service facilities for 4826
health professions personnel, housing facilities for such 4827
personnel and their families, and parking and service facilities 4828
in connection with any of the foregoing; and includes any one, 4829
part of, or any combination of the foregoing; and further includes 4830
site improvements, utilities, machinery, facilities, furnishings, 4831
and any separate or connected buildings, structures, improvements, 4832
sites, utilities, facilities, or equipment to be used in, or in 4833
connection with the operation or maintenance of, or supplementing 4834
or otherwise related to the services or facilities to be provided 4835
by, any one or more of such hospital facilities. 4836

(F) "Costs of hospital facilities" means the costs of 4837
acquiring hospital facilities or interests in hospital facilities, 4838
including membership interests in nonprofit hospital agencies, 4839
costs of constructing hospital facilities, costs of improving one 4840
or more hospital facilities, including reconstructing, 4841
rehabilitating, remodeling, renovating, and enlarging, costs of 4842
equipping and furnishing such facilities, and all financing costs 4843
pertaining thereto, including, without limitation thereto, costs 4844
of engineering, architectural, and other professional services, 4845
designs, plans, specifications and surveys, and estimates of cost, 4846
costs of tests and inspections, the costs of any indemnity or 4847
surety bonds and premiums on insurance, all related direct or 4848
allocable administrative expenses pertaining thereto, fees and 4849
expenses of trustees, depositories, and paying agents for the 4850
obligations, cost of issuance of the obligations and financing 4851
charges and fees and expenses of financial advisors, attorneys, 4852
accountants, consultants and rating services in connection 4853
therewith, capitalized interest on the obligations, amounts 4854
necessary to establish reserves as required by the bond 4855

proceedings, the reimbursement of all moneys advanced or applied 4856
by the hospital agency or others or borrowed from others for the 4857
payment of any item or items of costs of such facilities, and all 4858
other expenses necessary or incident to planning or determining 4859
feasibility or practicability with respect to such facilities, and 4860
such other expenses as may be necessary or incident to the 4861
acquisition, construction, reconstruction, rehabilitation, 4862
remodeling, renovation, enlargement, improvement, equipment, and 4863
furnishing of such facilities, the financing thereof, and the 4864
placing of the same in use and operation, including any one, part 4865
of, or combination of such classes of costs and expenses, and 4866
means the costs of refinancing obligations issued by, or 4867
reimbursement of money advanced by, nonprofit hospital agencies or 4868
others the proceeds of which were used for the payment of costs of 4869
hospital facilities, if the governing body of the public hospital 4870
agency determines that the refinancing or reimbursement advances 4871
the purposes of this chapter, whether or not the refinancing or 4872
reimbursement is in conjunction with the acquisition or 4873
construction of additional hospital facilities. 4874

(G) "Hospital receipts" means all moneys received by or on 4875
behalf of a hospital agency from or in connection with the 4876
ownership, operation, acquisition, construction, improvement, 4877
equipping, or financing of any hospital facilities, including, 4878
without limitation thereto, any rentals and other moneys received 4879
from the lease, sale, or other disposition of hospital facilities, 4880
and any gifts, grants, interest subsidies, or other moneys 4881
received under any federal program for assistance in financing the 4882
costs of hospital facilities, and any other gifts, grants, and 4883
donations, and receipts therefrom, available for financing the 4884
costs of hospital facilities. 4885

(H) "Obligations" means bonds, notes, or other evidences of 4886
indebtedness or obligation, including interest coupons pertaining 4887

thereto, issued or issuable by a public hospital agency to pay 4888
costs of hospital facilities. 4889

(I) "Bond service charges" means principal, interest, and 4890
call premium, if any, required to be paid on obligations. 4891

(J) "Bond proceedings" means one or more ordinances, 4892
resolutions, trust agreements, indentures, and other agreements or 4893
documents, and amendments and supplements to the foregoing, or any 4894
combination thereof, authorizing or providing for the terms, 4895
including any variable interest rates, and conditions applicable 4896
to, or providing for the security of, obligations and the 4897
provisions contained in such obligations. 4898

(K) "Nursing home" has the same meaning as in division (A)(1) 4899
of section 5701.13 of the Revised Code. 4900

(L) "Residential care facility" has the same meaning as in 4901
division (A)(2) of section 5701.13 of the Revised Code. 4902

(M) ~~"Adult care facility" has the same meaning as in division 4903
(A)(3) of section 5701.13 of the Revised Code.~~ 4904

~~(N)~~ "Independent living facility" means any self-care 4905
facility or other housing facility designed or used as a residence 4906
for elderly persons. An "independent living facility" does not 4907
include a residential facility, or that part of a residential 4908
facility, that is any of the following: 4909

(1) A hospital required to be certified by section 3727.02 of 4910
the Revised Code; 4911

(2) A nursing home or residential care facility; 4912

(3) ~~An adult care facility;~~ 4913

~~(4)~~ A facility operated by a hospice care program licensed 4914
under section 3712.04 of the Revised Code and used for the 4915
program's hospice patients; 4916

(4) A residential facility licensed by the department of 4917

mental health under section 5119.22 of the Revised Code that 4918
provides accommodations, supervision, and personal care services 4919
for three to sixteen unrelated adults; 4920

(5) A residential facility ~~for the mentally ill~~ licensed by 4921
the department of mental health under section 5119.22 of the 4922
Revised Code that is not a residential facility described in 4923
division (M)(4) of this section; 4924

(6) A facility licensed to provide methadone treatment under 4925
section 3793.11 of the Revised Code; 4926

(7) A facility certified as an alcohol and drug addiction 4927
program under section 3793.06 of the Revised Code; 4928

(8) A residential facility licensed under section 5123.19 of 4929
the Revised Code or a facility providing services under a contract 4930
with the department of developmental disabilities under section 4931
5123.18 of the Revised Code; 4932

(9) A residential facility used as part of a hospital to 4933
provide housing for staff of the hospital or students pursuing a 4934
course of study at the hospital. 4935

Sec. 140.03. (A) Two or more hospital agencies may enter into 4936
agreements for the acquisition, construction, reconstruction, 4937
rehabilitation, remodeling, renovating, enlarging, equipping, and 4938
furnishing of hospital facilities, or the management, operation, 4939
occupancy, use, maintenance, and repair of hospital facilities, or 4940
for participation in programs, projects, activities, and services 4941
useful to, connected with, supplementing, or otherwise related to 4942
the services provided by, or the operation of, hospital facilities 4943
operated by one or more participating hospital agencies, including 4944
any combination of such purposes, all in such manner as to promote 4945
the public purpose stated in section 140.02 of the Revised Code. A 4946
city health district; general health district; board of alcohol, 4947

drug addiction, and mental health services; county board of 4948
developmental disabilities; the department of mental health; the 4949
department of developmental disabilities; or any public body 4950
engaged in the education or training of health professions 4951
personnel may join in any such agreement for purposes related to 4952
its authority under laws applicable to it, and as such a 4953
participant shall be considered a public hospital agency or 4954
hospital agency for the purposes of this section. 4955

(B) An agreement entered into under authority of this section 4956
shall, where appropriate, provide for: 4957

(1) The manner in which the title to the hospital facilities, 4958
including the sites and interest in real estate pertaining 4959
thereto, is to be held, transferred, or disposed of; 4960

(2) Unless provided for by lease pursuant to section 140.05 4961
of the Revised Code, the method by which such hospital facilities 4962
are to be acquired, constructed, or otherwise improved and by 4963
which they shall be managed, occupied, maintained, and repaired, 4964
including the designation of one of the hospital agencies to have 4965
charge of the details of acquisition, construction, or improvement 4966
pursuant to the contracting procedures prescribed under the law 4967
applicable to one of the participating public hospital agencies; 4968

(3) The management or administration of any such programs, 4969
projects, activities, or services, which may include management or 4970
administration by one of said hospital agencies or a board or 4971
agency thereof; 4972

(4) Annual, or more frequent, reports to the participating 4973
hospital agencies as to the revenues and receipts pertaining to 4974
the subject of the agreement, the expenditures thereof, the status 4975
and application of other funds contributed under such agreement, 4976
and such other matters as may be specified by or pursuant to such 4977
agreement; 4978

(5) The manner of apportionment or sharing of costs of hospital facilities, any other applicable costs of management, operation, maintenance, and repair of hospital facilities, and costs for the programs, projects, activities, and services forming the subject of the agreement, which apportionment or sharing may be prescribed in fixed amounts, or determined by ratios, formulas, or otherwise, and paid as service charges, rentals, or in such other manner as provided in the agreement, and may include amounts sufficient to meet the bond service charges and other payments and deposits required under the bond proceedings for obligations issued to pay costs of hospital facilities. A hospital agency may commit itself to make such payments at least for so long as any such obligations are outstanding. In the apportionment, different classes of costs or expenses may be apportioned to one or more, all or less than all, of the participating hospital agencies as determined under such agreement.

(C) An agreement entered into under authority of this section may provide for:

(1) An orderly process for making determinations or advising as to planning, execution, implementation, and operation, which may include designating one of the hospital agencies, or a board thereof, for any of such purposes, provisions for a committee, board, or commission, and for representation thereon, or as may otherwise be provided;

(2) Securing necessary personnel, including participation of personnel from the respective hospital agencies;

(3) Standards or conditions for the admission or participation of patients and physicians;

(4) Conditions for admittance of other hospital agencies to participation under the agreement;

(5) Fixing or establishing the method of determining charges

to be made for particular services; 5010

(6) The manner of amending, supplementing, terminating, or 5011
withdrawal or removal of any party from, the agreement, and the 5012
term of the agreement, or an indefinite term; 5013

(7) Designation of the applicants for or recipients of any 5014
federal, state, or other aid, assistance, or loans available by 5015
reason of any activities conducted under the agreement; 5016

(8) Designation of one or more of the participating hospital 5017
agencies to maintain, prepare, and submit, on behalf of all 5018
parties to the agreement, any or all records and reports with 5019
regard to the activities conducted under the agreement; 5020

(9) Any incidental use of the hospital facilities, or 5021
services thereof, by participating public hospital agencies for 5022
any of their lawful purposes, which incidental use does not impair 5023
the character of the facilities as hospital facilities for any 5024
purpose of this chapter; 5025

(10) Such other matters as the parties thereto may agree upon 5026
for the purposes of division (A) of this section. 5027

(D) For the purpose of paying or contributing its share under 5028
an agreement made under this section, a public hospital agency 5029
may: 5030

(1) Expend any moneys from its general fund, and from any 5031
other funds not otherwise restricted by law, but including funds 5032
for permanent improvements of hospital facilities of such public 5033
hospital agency where the contribution is to be made toward the 5034
costs of hospital facilities under the agreement, and including 5035
funds derived from levies for, or receipts available for, 5036
operating expenses of hospital facilities or services of such 5037
public hospital agency where the contribution or payment is to be 5038
made toward operating expenses of the hospital facilities or 5039
services under the agreement or for the services provided thereby; 5040

(2) Issue obligations under Chapter 133. or section 140.06, 5041
339.14, 339.15, 513.12, or 3345.12 of the Revised Code, or Section 5042
3 of Article XVIII, Ohio Constitution, if applicable to such 5043
public hospital agency, to pay costs of hospital facilities, or 5044
issue obligations under any other provision of law authorizing 5045
such public hospital agency to issue obligations for any costs of 5046
hospital facilities; 5047

(3) Levy taxes under Chapter 5705. or section 513.13 or 5048
3709.29 of the Revised Code, if applicable to such public hospital 5049
agency, provided that the purpose of such levy may include the 5050
provision of funds for either or both permanent improvements and 5051
current expenses if required for the contribution or payment of 5052
such hospital agency under such agreement, and each such public 5053
hospital agency may issue notes in anticipation of any such levy, 5054
pursuant to the procedures provided in section 5705.191 of the 5055
Revised Code if the levy is solely for current expenses, and in 5056
section 5705.193 of the Revised Code if the levy is all or in part 5057
for permanent improvements; 5058

(4) Contribute real and personal property or interest therein 5059
without necessity for competitive bidding or public auction on 5060
disposition of such property. 5061

(E) Any funds provided by public hospital agencies that are 5062
parties to an agreement entered into under this section shall be 5063
transferred to and placed in a separate fund or funds of such 5064
participating public hospital agency as is designated under the 5065
agreement. The funds shall be applied for the purposes provided in 5066
such agreement and are subject to audit. Pursuant to any 5067
determinations to be made under such agreement, the funds shall be 5068
deposited, invested, and disbursed under the provisions of law 5069
applicable to the public hospital agency in whose custody the 5070
funds are held. This division is subject to the provisions of any 5071
applicable bond proceedings under section 133.08, 140.06, 339.15, 5072

or 3345.12 of the Revised Code or Section 3 of Article XVIII, Ohio 5073
Constitution. The records and reports of such public hospital 5074
agency under Chapter 117. of the Revised Code and sections 3702.51 5075
to 3702.62 of the Revised Code, with respect to the funds shall be 5076
sufficient without necessity for reports thereon by the other 5077
public hospital agencies participating under such agreement. 5078

(F)(1) Prior to its entry into any such agreement, the public 5079
hospital agency must determine, and set forth in a resolution or 5080
ordinance, that the contribution to be made by it under such 5081
agreement will be fair consideration for value and benefit to be 5082
derived by it under such agreement and that the agreement will 5083
promote the public purpose stated in section 140.02 of the Revised 5084
Code. 5085

(2) If the agreement is with a board of county commissioners, 5086
board of county hospital trustees, or county hospital commission 5087
and is an initial agreement for the acquisition or operation of a 5088
county hospital operated by a board of county hospital trustees 5089
under section 339.06 of the Revised Code, the governing body of 5090
the public hospital agency shall submit the agreement, accompanied 5091
by the resolution or ordinance, to the board of county 5092
commissioners for review pursuant to section 339.091 of the 5093
Revised Code. The agreement may be entered into only if the board 5094
of county commissioners adopts a resolution under that section. 5095
The requirements of division (F)(2) of this section do not apply 5096
to the agreement if one or more hospitals classified as general 5097
hospitals by the ~~public director of health council~~ under section 5098
3701.07 of the Revised Code are operating in the same county as 5099
the county hospital. 5100

Sec. 140.05. (A)(1) A public hospital agency may lease any 5101
hospital facility to one or more hospital agencies for use as a 5102
hospital facility, or to one or more city or general health 5103

districts; boards of alcohol, drug addiction, and mental health 5104
services; county boards of developmental disabilities; the 5105
department of mental health; or the department of developmental 5106
disabilities, for uses which they are authorized to make thereof 5107
under the laws applicable to them, or any combination of them, and 5108
they may lease such facilities to or from a hospital agency for 5109
such uses, upon such terms and conditions as are agreed upon by 5110
the parties. Such lease may be for a term of fifty years or less 5111
and may provide for an option of the lessee to renew for a term of 5112
fifty years or less, as therein set forth. Prior to entering into 5113
such lease, the governing body of any public hospital agency 5114
granting such lease must determine, and set forth in a resolution 5115
or ordinance, that such lease will promote the public purpose 5116
stated in section 140.02 of the Revised Code and that the lessor 5117
public hospital agency will be duly benefited thereby. 5118

(2) If the lease is with a board of county commissioners, 5119
board of county hospital trustees, or county hospital commission 5120
and is an agreement for the initial lease of a county hospital 5121
operated by a board of county hospital trustees under section 5122
339.06 of the Revised Code, the governing body of the public 5123
hospital agency shall submit the agreement, accompanied by the 5124
resolution or ordinance, to the board of county commissioners for 5125
review pursuant to section 339.091 of the Revised Code. The 5126
agreement may be entered into only if the board of county 5127
commissioners adopts a resolution under that section. The 5128
requirements of division (A)(2) of this section do not apply to 5129
the lease if one or more hospitals classified as general hospitals 5130
by the ~~public~~ public director of health council under section 3701.07 of 5131
the Revised Code are operating in the same county as the county 5132
hospital. 5133

(B) Any lease entered into pursuant to this section shall 5134
provide that in the event that the lessee fails faithfully and 5135

efficiently to administer, maintain, and operate such leased 5136
facilities as hospital facilities, or fails to provide the 5137
services thereof without regard to race, creed, color, or national 5138
origin, or fails to require that any hospital agency using such 5139
facilities or the services thereof shall not discriminate by 5140
reason of race, creed, color, or national origin, after an 5141
opportunity to be heard upon written charges, said lease may be 5142
terminated at the time, in the manner and with consequences 5143
therein provided. If any such lease does not contain terms to the 5144
effect provided in this division, it shall nevertheless be deemed 5145
to contain such terms which shall be implemented as determined by 5146
the governing body of the lessor. 5147

(C) Such lease may provide for rentals commencing at any time 5148
agreed upon, or advance rental, and continuing for such period 5149
therein provided, notwithstanding and without diminution, rebate, 5150
or setoff by reason of time of availability of the hospital 5151
facility for use, delays in construction, failure of completion, 5152
damage or destruction of the hospital facilities, or for any other 5153
reason. 5154

(D) Such lease may provide for the sale or transfer of title 5155
of the leased facilities pursuant to an option to purchase, 5156
lease-purchase, or installment purchase upon terms therein 5157
provided or to be determined as therein provided, which may 5158
include provision for the continued use thereof as a hospital 5159
facility for some reasonable period, taking into account efficient 5160
useful life and other factors, as is provided therein. 5161

(E) Such lease may be entered as part of or in connection 5162
with an agreement pursuant to section 140.03 of the Revised Code. 5163
Any hospital facilities which are the subject of an agreement 5164
entered into under section 140.03 of the Revised Code may be 5165
leased pursuant to this section. 5166

(F) If land acquired by a public hospital agency for a 5167

hospital facility is adjacent to an existing hospital facility 5168
owned by another hospital agency, the public hospital agency may, 5169
in connection with such acquisition or the leasing of such land 5170
and hospital facilities thereon to one or more hospital agencies, 5171
enter into an agreement with the hospital agency which owns such 5172
adjacent hospital facility for the use of common walls in the 5173
construction, operation, or maintenance of hospital facilities of 5174
the public hospital agency. For the purpose of construction, 5175
operation, or maintenance of hospital facilities, a public 5176
hospital agency may acquire by purchase, gift, lease, lease with 5177
option to purchase, lease-purchase, or installment purchase, 5178
easement deed, or other agreement, real estate and interests in 5179
real estate, including rights to use space over, under or upon 5180
real property owned by others, and support, access, common wall, 5181
and other rights in connection therewith. Any public hospital 5182
agency or other political subdivision or any public agency, board, 5183
commission, institution, body, or instrumentality may grant such 5184
real estate, interests, or rights to any hospital agency upon such 5185
terms as are agreed upon without necessity for competitive bidding 5186
or public auction. 5187

Sec. 140.08. (A) Except as otherwise provided in divisions 5188
(B)(1) and (2) of this section, all hospital facilities purchased, 5189
acquired, constructed, or owned by a public hospital agency, or 5190
financed in whole or in part by obligations issued by a public 5191
hospital agency, and used, or to be used when completed, as 5192
hospital facilities, and the income therefrom, are exempt from all 5193
taxation within this state, including ad valorem and excise taxes, 5194
notwithstanding any other provisions of law, and hospital agencies 5195
are exempt from taxes levied under Chapters 5739. and 5741. of the 5196
Revised Code. The obligations issued hereafter under section 5197
133.08, 140.06, or 339.15 of the Revised Code or Section 3 of 5198
Article XVIII, Ohio Constitution, to pay costs of hospital 5199

facilities or to refund such obligations, and the transfer 5200
thereof, and the interest and other income from such obligations, 5201
including any profit made on the sale thereof, is free from 5202
taxation within the state. 5203

(B)(1) Division (A) of this section does not exempt 5204
independent living facilities from taxes levied on property or 5205
taxes levied under Chapters 5739. and 5741. of the Revised Code. 5206
If an independent living facility or part of such facility becomes 5207
~~an adult care facility, nursing home, or residential care facility~~ 5208
on or after January 10, 1991, a nursing home, residential care 5209
facility, or residential facility described in division (M)(4) of 5210
section 140.01 of the Revised Code, that part of the independent 5211
living facility that is ~~an adult care facility,~~ a nursing home, or 5212
~~residential care facility,~~ or residential facility described in 5213
division (M)(4) of section 140.01 of the Revised Code is exempt 5214
from taxation subject to division (B)(2) of this section on and 5215
after the date it becomes ~~an adult care facility,~~ a nursing home, 5216
~~or residential care facility,~~ or residential facility described in 5217
division (M)(4) of section 140.01 of the Revised Code. 5218

(2) Division (A) of this section exempts nursing homes, 5219
residential care facilities, and ~~adult care~~ residential facilities 5220
described in division (M)(4) of section 140.01 of the Revised Code 5221
from taxes levied on property and taxes levied under Chapters 5222
5739. and 5741. of the Revised Code only until all obligations 5223
issued to finance such homes or facilities, or all refunding or 5224
series of refundings of those obligations, are redeemed or 5225
otherwise retired. 5226

Sec. 145.01. As used in this chapter: 5227

(A) "Public employee" means: 5228

(1) Any person holding an office, not elective, under the 5229
state or any county, township, municipal corporation, park 5230

district, conservancy district, sanitary district, health 5231
district, metropolitan housing authority, state retirement board, 5232
Ohio historical society, public library, county law library, union 5233
cemetery, joint hospital, institutional commissary, state 5234
university, or board, bureau, commission, council, committee, 5235
authority, or administrative body as the same are, or have been, 5236
created by action of the general assembly or by the legislative 5237
authority of any of the units of local government named in 5238
division (A)(1) of this section, or employed and paid in whole or 5239
in part by the state or any of the authorities named in division 5240
(A)(1) of this section in any capacity not covered by section 5241
742.01, 3307.01, 3309.01, or 5505.01 of the Revised Code. 5242

(2) A person who is a member of the public employees 5243
retirement system and who continues to perform the same or similar 5244
duties under the direction of a contractor who has contracted to 5245
take over what before the date of the contract was a publicly 5246
operated function. The governmental unit with which the contract 5247
has been made shall be deemed the employer for the purposes of 5248
administering this chapter. 5249

(3) Any person who is an employee of a public employer, 5250
notwithstanding that the person's compensation for that employment 5251
is derived from funds of a person or entity other than the 5252
employer. Credit for such service shall be included as total 5253
service credit, provided that the employee makes the payments 5254
required by this chapter, and the employer makes the payments 5255
required by sections 145.48 and 145.51 of the Revised Code. 5256

(4) A person who elects in accordance with section 145.015 of 5257
the Revised Code to remain a contributing member of the public 5258
employees retirement system. 5259

(5) A person who is an employee of the legal rights service 5260
on September 30, 2012, and continues to be employed by the 5261
nonprofit entity established under Section 319.20 of Am. Sub. H.B. 5262

153 of the 129th general assembly. The nonprofit entity is the 5263
employer for the purpose of this chapter. 5264

In all cases of doubt, the public employees retirement board 5265
shall determine whether any person is a public employee, and its 5266
decision is final. 5267

(B) "Member" means any public employee, other than a public 5268
employee excluded or exempted from membership in the retirement 5269
system by section 145.03, 145.031, 145.032, 145.033, 145.034, 5270
145.035, or 145.38 of the Revised Code. "Member" includes a PERS 5271
retirant who becomes a member under division (C) of section 145.38 5272
of the Revised Code. "Member" also includes a disability benefit 5273
recipient. 5274

(C) "Head of the department" means the elective or appointive 5275
head of the several executive, judicial, and administrative 5276
departments, institutions, boards, and commissions of the state 5277
and local government as the same are created and defined by the 5278
laws of this state or, in case of a charter government, by that 5279
charter. 5280

(D) "Employer" or "public employer" means the state or any 5281
county, township, municipal corporation, park district, 5282
conservancy district, sanitary district, health district, 5283
metropolitan housing authority, state retirement board, Ohio 5284
historical society, public library, county law library, union 5285
cemetery, joint hospital, institutional commissary, state medical 5286
university, state university, or board, bureau, commission, 5287
council, committee, authority, or administrative body as the same 5288
are, or have been, created by action of the general assembly or by 5289
the legislative authority of any of the units of local government 5290
named in this division not covered by section 742.01, 3307.01, 5291
3309.01, or 5505.01 of the Revised Code. In addition, "employer" 5292
means the employer of any public employee. 5293

(E) "Prior service" means all service as a public employee 5294
rendered before January 1, 1935, and all service as an employee of 5295
any employer who comes within the state teachers retirement system 5296
or of the school employees retirement system or of any other 5297
retirement system established under the laws of this state 5298
rendered prior to January 1, 1935, provided that if the employee 5299
claiming the service was employed in any capacity covered by that 5300
other system after that other system was established, credit for 5301
the service may be allowed by the public employees retirement 5302
system only when the employee has made payment, to be computed on 5303
the salary earned from the date of appointment to the date 5304
membership was established in the public employees retirement 5305
system, at the rate in effect at the time of payment, and the 5306
employer has made payment of the corresponding full liability as 5307
provided by section 145.44 of the Revised Code. "Prior service" 5308
also means all service credited for active duty with the armed 5309
forces of the United States as provided in section 145.30 of the 5310
Revised Code. 5311

If an employee who has been granted prior service credit by 5312
the public employees retirement system for service rendered prior 5313
to January 1, 1935, as an employee of a board of education 5314
establishes, before retirement, one year or more of contributing 5315
service in the state teachers retirement system or school 5316
employees retirement system, then the prior service ceases to be 5317
the liability of this system. 5318

If the board determines that a position of any member in any 5319
calendar year prior to January 1, 1935, was a part-time position, 5320
the board shall determine what fractional part of a year's credit 5321
shall be allowed by the following formula: 5322

(1) When the member has been either elected or appointed to 5323
an office the term of which was two or more years and for which an 5324
annual salary is established, the fractional part of the year's 5325

credit shall be computed as follows: 5326

First, when the member's annual salary is one thousand 5327
dollars or less, the service credit for each such calendar year 5328
shall be forty per cent of a year. 5329

Second, for each full one hundred dollars of annual salary 5330
above one thousand dollars, the member's service credit for each 5331
such calendar year shall be increased by two and one-half per 5332
cent. 5333

(2) When the member is paid on a per diem basis, the service 5334
credit for any single year of the service shall be determined by 5335
using the number of days of service for which the compensation was 5336
received in any such year as a numerator and using two hundred 5337
fifty days as a denominator. 5338

(3) When the member is paid on an hourly basis, the service 5339
credit for any single year of the service shall be determined by 5340
using the number of hours of service for which the compensation 5341
was received in any such year as a numerator and using two 5342
thousand hours as a denominator. 5343

(F) "Contributor" means any person who has an account in the 5344
employees' savings fund created by section 145.23 of the Revised 5345
Code. When used in the sections listed in division (B) of section 5346
145.82 of the Revised Code, "contributor" includes any person 5347
participating in a PERS defined contribution plan. 5348

(G) "Beneficiary" or "beneficiaries" means the estate or a 5349
person or persons who, as the result of the death of a member, 5350
contributor, or retirant, qualify for or are receiving some right 5351
or benefit under this chapter. 5352

(H)(1) "Total service credit," except as provided in section 5353
145.37 of the Revised Code, means all service credited to a member 5354
of the retirement system since last becoming a member, including 5355
restored service credit as provided by section 145.31 of the 5356

Revised Code; credit purchased under sections 145.293 and 145.299 5357
of the Revised Code; all the member's prior service credit; all 5358
the member's military service credit computed as provided in this 5359
chapter; all service credit established pursuant to section 5360
145.297 of the Revised Code; and any other service credited under 5361
this chapter. In addition, "total service credit" includes any 5362
period, not in excess of three years, during which a member was 5363
out of service and receiving benefits under Chapters 4121. and 5364
4123. of the Revised Code. For the exclusive purpose of satisfying 5365
the service credit requirement and of determining eligibility for 5366
benefits under sections 145.32, 145.33, 145.331, 145.35, 145.36, 5367
and 145.361 of the Revised Code, "five or more years of total 5368
service credit" means sixty or more calendar months of 5369
contributing service in this system. 5370

(2) "One and one-half years of contributing service credit," 5371
as used in division (B) of section 145.45 of the Revised Code, 5372
also means eighteen or more calendar months of employment by a 5373
municipal corporation that formerly operated its own retirement 5374
plan for its employees or a part of its employees, provided that 5375
all employees of that municipal retirement plan who have eighteen 5376
or more months of such employment, upon establishing membership in 5377
the public employees retirement system, shall make a payment of 5378
the contributions they would have paid had they been members of 5379
this system for the eighteen months of employment preceding the 5380
date membership was established. When that payment has been made 5381
by all such employee members, a corresponding payment shall be 5382
paid into the employers' accumulation fund by that municipal 5383
corporation as the employer of the employees. 5384

(3) Where a member also is a member of the state teachers 5385
retirement system or the school employees retirement system, or 5386
both, except in cases of retirement on a combined basis pursuant 5387
to section 145.37 of the Revised Code or as provided in section 5388

145.383 of the Revised Code, service credit for any period shall 5389
be credited on the basis of the ratio that contributions to the 5390
public employees retirement system bear to total contributions in 5391
all state retirement systems. 5392

(4) Not more than one year of credit may be given for any 5393
period of twelve months. 5394

(5) "Ohio service credit" means credit for service that was 5395
rendered to the state or any of its political subdivisions or any 5396
employer. 5397

(I) "Regular interest" means interest at any rates for the 5398
respective funds and accounts as the public employees retirement 5399
board may determine from time to time. 5400

(J) "Accumulated contributions" means the sum of all amounts 5401
credited to a contributor's individual account in the employees' 5402
savings fund together with any interest credited to the 5403
contributor's account under section 145.471 or 145.472 of the 5404
Revised Code. 5405

(K)(1) "Final average salary" means the quotient obtained by 5406
dividing by three the sum of the three full calendar years of 5407
contributing service in which the member's earnable salary was 5408
highest, except that if the member has a partial year of 5409
contributing service in the year the member's employment 5410
terminates and the member's earnable salary for the partial year 5411
is higher than for any comparable period in the three years, the 5412
member's earnable salary for the partial year shall be substituted 5413
for the member's earnable salary for the comparable period during 5414
the three years in which the member's earnable salary was lowest. 5415

(2) If a member has less than three years of contributing 5416
service, the member's final average salary shall be the member's 5417
total earnable salary divided by the total number of years, 5418
including any fraction of a year, of the member's contributing 5419

service. 5420

(3) For the purpose of calculating benefits payable to a 5421
member qualifying for service credit under division (Z) of this 5422
section, "final average salary" means the total earnable salary on 5423
which contributions were made divided by the total number of years 5424
during which contributions were made, including any fraction of a 5425
year. If contributions were made for less than twelve months, 5426
"final average salary" means the member's total earnable salary. 5427

(L) "Annuity" means payments for life derived from 5428
contributions made by a contributor and paid from the annuity and 5429
pension reserve fund as provided in this chapter. All annuities 5430
shall be paid in twelve equal monthly installments. 5431

(M) "Annuity reserve" means the present value, computed upon 5432
the basis of the mortality and other tables adopted by the board, 5433
of all payments to be made on account of any annuity, or benefit 5434
in lieu of any annuity, granted to a retirant as provided in this 5435
chapter. 5436

(N)(1) "Disability retirement" means retirement as provided 5437
in section 145.36 of the Revised Code. 5438

(2) "Disability allowance" means an allowance paid on account 5439
of disability under section 145.361 of the Revised Code. 5440

(3) "Disability benefit" means a benefit paid as disability 5441
retirement under section 145.36 of the Revised Code, as a 5442
disability allowance under section 145.361 of the Revised Code, or 5443
as a disability benefit under section 145.37 of the Revised Code. 5444

(4) "Disability benefit recipient" means a member who is 5445
receiving a disability benefit. 5446

(O) "Age and service retirement" means retirement as provided 5447
in sections 145.32, 145.33, 145.331, 145.34, 145.37, and 145.46 of 5448
the Revised Code. 5449

(P) "Pensions" means annual payments for life derived from 5450
contributions made by the employer that at the time of retirement 5451
are credited into the annuity and pension reserve fund from the 5452
employers' accumulation fund and paid from the annuity and pension 5453
reserve fund as provided in this chapter. All pensions shall be 5454
paid in twelve equal monthly installments. 5455

(Q) "Retirement allowance" means the pension plus that 5456
portion of the benefit derived from contributions made by the 5457
member. 5458

(R)(1) Except as otherwise provided in division (R) of this 5459
section, "earnable salary" means all salary, wages, and other 5460
earnings paid to a contributor by reason of employment in a 5461
position covered by the retirement system. The salary, wages, and 5462
other earnings shall be determined prior to determination of the 5463
amount required to be contributed to the employees' savings fund 5464
under section 145.47 of the Revised Code and without regard to 5465
whether any of the salary, wages, or other earnings are treated as 5466
deferred income for federal income tax purposes. "Earnable salary" 5467
includes the following: 5468

(a) Payments made by the employer in lieu of salary, wages, 5469
or other earnings for sick leave, personal leave, or vacation used 5470
by the contributor; 5471

(b) Payments made by the employer for the conversion of sick 5472
leave, personal leave, and vacation leave accrued, but not used if 5473
the payment is made during the year in which the leave is accrued, 5474
except that payments made pursuant to section 124.383 or 124.386 5475
of the Revised Code are not earnable salary; 5476

(c) Allowances paid by the employer for full maintenance, 5477
consisting of housing, laundry, and meals, as certified to the 5478
retirement board by the employer or the head of the department 5479
that employs the contributor; 5480

(d) Fees and commissions paid under section 507.09 of the Revised Code;	5481 5482
(e) Payments that are made under a disability leave program sponsored by the employer and for which the employer is required by section 145.296 of the Revised Code to make periodic employer and employee contributions;	5483 5484 5485 5486
(f) Amounts included pursuant to divisions (K)(3) and (Y) of this section.	5487 5488
(2) "Earnable salary" does not include any of the following:	5489
(a) Fees and commissions, other than those paid under section 507.09 of the Revised Code, paid as sole compensation for personal services and fees and commissions for special services over and above services for which the contributor receives a salary;	5490 5491 5492 5493
(b) Amounts paid by the employer to provide life insurance, sickness, accident, endowment, health, medical, hospital, dental, or surgical coverage, or other insurance for the contributor or the contributor's family, or amounts paid by the employer to the contributor in lieu of providing the insurance;	5494 5495 5496 5497 5498
(c) Incidental benefits, including lodging, food, laundry, parking, or services furnished by the employer, or use of the employer's property or equipment, or amounts paid by the employer to the contributor in lieu of providing the incidental benefits;	5499 5500 5501 5502
(d) Reimbursement for job-related expenses authorized by the employer, including moving and travel expenses and expenses related to professional development;	5503 5504 5505
(e) Payments for accrued but unused sick leave, personal leave, or vacation that are made at any time other than in the year in which the sick leave, personal leave, or vacation was accrued;	5506 5507 5508 5509
(f) Payments made to or on behalf of a contributor that are	5510

in excess of the annual compensation that may be taken into 5511
account by the retirement system under division (a)(17) of section 5512
401 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 5513
U.S.C.A. 401(a)(17), as amended; 5514

(g) Payments made under division (B), (C), or (E) of section 5515
5923.05 of the Revised Code, Section 4 of Substitute Senate Bill 5516
No. 3 of the 119th general assembly, Section 3 of Amended 5517
Substitute Senate Bill No. 164 of the 124th general assembly, or 5518
Amended Substitute House Bill No. 405 of the 124th general 5519
assembly; 5520

(h) Anything of value received by the contributor that is 5521
based on or attributable to retirement or an agreement to retire, 5522
except that payments made on or before January 1, 1989, that are 5523
based on or attributable to an agreement to retire shall be 5524
included in earnable salary if both of the following apply: 5525

(i) The payments are made in accordance with contract 5526
provisions that were in effect prior to January 1, 1986; 5527

(ii) The employer pays the retirement system an amount 5528
specified by the retirement board equal to the additional 5529
liability resulting from the payments. 5530

(3) The retirement board shall determine by rule whether any 5531
compensation not enumerated in division (R) of this section is 5532
earnable salary, and its decision shall be final. 5533

(S) "Pension reserve" means the present value, computed upon 5534
the basis of the mortality and other tables adopted by the board, 5535
of all payments to be made on account of any retirement allowance 5536
or benefit in lieu of any retirement allowance, granted to a 5537
member or beneficiary under this chapter. 5538

(T)(1) "Contributing service" means all service credited to a 5539
member of the system since January 1, 1935, for which 5540
contributions are made as required by sections 145.47, 145.48, and 5541

145.483 of the Revised Code. In any year subsequent to 1934, 5542
credit for any service shall be allowed by the following formula: 5543

(a) For each month for which the member's earnable salary is 5544
two hundred fifty dollars or more, allow one month's credit. 5545

(b) For each month for which the member's earnable salary is 5546
less than two hundred fifty dollars, allow a fraction of a month's 5547
credit. The numerator of this fraction shall be the earnable 5548
salary during the month, and the denominator shall be two hundred 5549
fifty dollars, except that if the member's annual earnable salary 5550
is less than six hundred dollars, the member's credit shall not be 5551
reduced below twenty per cent of a year for a calendar year of 5552
employment during which the member worked each month. Division 5553
(T)(1)(b) of this section shall not reduce any credit earned 5554
before January 1, 1985. 5555

(2) Notwithstanding division (T)(1) of this section, an 5556
elected official who prior to January 1, 1980, was granted a full 5557
year of credit for each year of service as an elected official 5558
shall be considered to have earned a full year of credit for each 5559
year of service regardless of whether the service was full-time or 5560
part-time. The public employees retirement board has no authority 5561
to reduce the credit. 5562

(U) "State retirement board" means the public employees 5563
retirement board, the school employees retirement board, or the 5564
state teachers retirement board. 5565

(V) "Retirant" means any former member who retires and is 5566
receiving a monthly allowance as provided in sections 145.32, 5567
145.33, 145.331, 145.34, and 145.46 of the Revised Code. 5568

(W) "Employer contribution" means the amount paid by an 5569
employer as determined under section 145.48 of the Revised Code. 5570

(X) "Public service terminates" means the last day for which 5571
a public employee is compensated for services performed for an 5572

employer or the date of the employee's death, whichever occurs 5573
first. 5574

(Y) When a member has been elected or appointed to an office, 5575
the term of which is two or more years, for which an annual salary 5576
is established, and in the event that the salary of the office is 5577
increased and the member is denied the additional salary by reason 5578
of any constitutional provision prohibiting an increase in salary 5579
during a term of office, the member may elect to have the amount 5580
of the member's contributions calculated upon the basis of the 5581
increased salary for the office. At the member's request, the 5582
board shall compute the total additional amount the member would 5583
have contributed, or the amount by which each of the member's 5584
contributions would have increased, had the member received the 5585
increased salary for the office the member holds. If the member 5586
elects to have the amount by which the member's contribution would 5587
have increased withheld from the member's salary, the member shall 5588
notify the employer, and the employer shall make the withholding 5589
and transmit it to the retirement system. A member who has not 5590
elected to have that amount withheld may elect at any time to make 5591
a payment to the retirement system equal to the additional amount 5592
the member's contribution would have increased, plus interest on 5593
that contribution, compounded annually at a rate established by 5594
the board and computed from the date on which the last 5595
contribution would have been withheld from the member's salary to 5596
the date of payment. A member may make a payment for part of the 5597
period for which the increased contribution was not withheld, in 5598
which case the interest shall be computed from the date the last 5599
contribution would have been withheld for the period for which the 5600
payment is made. Upon the payment of the increased contributions 5601
as provided in this division, the increased annual salary as 5602
provided by law for the office for the period for which the member 5603
paid increased contributions thereon shall be used in determining 5604
the member's earnable salary for the purpose of computing the 5605

member's final average salary. 5606

(Z) "Five years of service credit," for the exclusive purpose 5607
of satisfying the service credit requirements and of determining 5608
eligibility for benefits under section 145.33 of the Revised Code, 5609
means employment covered under this chapter or under a former 5610
retirement plan operated, recognized, or endorsed by the employer 5611
prior to coverage under this chapter or under a combination of the 5612
coverage. 5613

(AA) "Deputy sheriff" means any person who is commissioned 5614
and employed as a full-time peace officer by the sheriff of any 5615
county, and has been so employed since on or before December 31, 5616
1965; any person who is or has been commissioned and employed as a 5617
peace officer by the sheriff of any county since January 1, 1966, 5618
and who has received a certificate attesting to the person's 5619
satisfactory completion of the peace officer training school as 5620
required by section 109.77 of the Revised Code; or any person 5621
deputized by the sheriff of any county and employed pursuant to 5622
section 2301.12 of the Revised Code as a criminal bailiff or court 5623
constable who has received a certificate attesting to the person's 5624
satisfactory completion of the peace officer training school as 5625
required by section 109.77 of the Revised Code. 5626

(BB) "Township constable or police officer in a township 5627
police department or district" means any person who is 5628
commissioned and employed as a full-time peace officer pursuant to 5629
Chapter 505. or 509. of the Revised Code, who has received a 5630
certificate attesting to the person's satisfactory completion of 5631
the peace officer training school as required by section 109.77 of 5632
the Revised Code. 5633

(CC) "Drug agent" means any person who is either of the 5634
following: 5635

(1) Employed full time as a narcotics agent by a county 5636

narcotics agency created pursuant to section 307.15 of the Revised Code and has received a certificate attesting to the satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code;

(2) Employed full time as an undercover drug agent as defined in section 109.79 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(DD) "Department of public safety enforcement agent" means a full-time employee of the department of public safety who is designated under section 5502.14 of the Revised Code as an enforcement agent and who is in compliance with section 109.77 of the Revised Code.

(EE) "Natural resources law enforcement staff officer" means a full-time employee of the department of natural resources who is designated a natural resources law enforcement staff officer under section 1501.013 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(FF) "Park officer" means a full-time employee of the department of natural resources who is designated a park officer under section 1541.10 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(GG) "Forest officer" means a full-time employee of the department of natural resources who is designated a forest officer under section 1503.29 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(HH) "Preserve officer" means a full-time employee of the department of natural resources who is designated a preserve officer under section 1517.10 of the Revised Code and is in compliance with section 109.77 of the Revised Code.

(II) "Wildlife officer" means a full-time employee of the department of natural resources who is designated a wildlife

officer under section 1531.13 of the Revised Code and is in 5668
compliance with section 109.77 of the Revised Code. 5669

(JJ) "State watercraft officer" means a full-time employee of 5670
the department of natural resources who is designated a state 5671
watercraft officer under section 1547.521 of the Revised Code and 5672
is in compliance with section 109.77 of the Revised Code. 5673

(KK) "Park district police officer" means a full-time 5674
employee of a park district who is designated pursuant to section 5675
511.232 or 1545.13 of the Revised Code and is in compliance with 5676
section 109.77 of the Revised Code. 5677

(LL) "Conservancy district officer" means a full-time 5678
employee of a conservancy district who is designated pursuant to 5679
section 6101.75 of the Revised Code and is in compliance with 5680
section 109.77 of the Revised Code. 5681

(MM) "Municipal police officer" means a member of the 5682
organized police department of a municipal corporation who is 5683
employed full time, is in compliance with section 109.77 of the 5684
Revised Code, and is not a member of the Ohio police and fire 5685
pension fund. 5686

(NN) "Veterans' home police officer" means any person who is 5687
employed at a veterans' home as a police officer pursuant to 5688
section 5907.02 of the Revised Code and is in compliance with 5689
section 109.77 of the Revised Code. 5690

(OO) "Special police officer for a mental health institution" 5691
means any person who is designated as such pursuant to section 5692
5119.14 of the Revised Code and is in compliance with section 5693
109.77 of the Revised Code. 5694

(PP) "Special police officer for an institution for the 5695
mentally retarded and developmentally disabled" means any person 5696
who is designated as such pursuant to section 5123.13 of the 5697
Revised Code and is in compliance with section 109.77 of the 5698

Revised Code. 5699

(QQ) "State university law enforcement officer" means any 5700
person who is employed full time as a state university law 5701
enforcement officer pursuant to section 3345.04 of the Revised 5702
Code and who is in compliance with section 109.77 of the Revised 5703
Code. 5704

(RR) "House sergeant at arms" means any person appointed by 5705
the speaker of the house of representatives under division (B)(1) 5706
of section 101.311 of the Revised Code who has arrest authority 5707
under division (E)(1) of that section. 5708

(SS) "Assistant house sergeant at arms" means any person 5709
appointed by the house sergeant at arms under division (C)(1) of 5710
section 101.311 of the Revised Code. 5711

(TT) "Regional transit authority police officer" means a 5712
person who is employed full time as a regional transit authority 5713
police officer under division (Y) of section 306.35 of the Revised 5714
Code and is in compliance with section 109.77 of the Revised Code. 5715

(UU) "State highway patrol police officer" means a special 5716
police officer employed full time and designated by the 5717
superintendent of the state highway patrol pursuant to section 5718
5503.09 of the Revised Code or a person serving full time as a 5719
special police officer pursuant to that section on a permanent 5720
basis on October 21, 1997, who is in compliance with section 5721
109.77 of the Revised Code. 5722

(VV) "Municipal public safety director" means a person who 5723
serves full time as the public safety director of a municipal 5724
corporation with the duty of directing the activities of the 5725
municipal corporation's police department and fire department. 5726

(WW) Notwithstanding section 2901.01 of the Revised Code, 5727
"PERS law enforcement officer" means a sheriff or any of the 5728
following whose primary duties are to preserve the peace, protect 5729

life and property, and enforce the laws of this state: a deputy 5730
sheriff, township constable or police officer in a township police 5731
department or district, drug agent, department of public safety 5732
enforcement agent, natural resources law enforcement staff 5733
officer, park officer, forest officer, preserve officer, wildlife 5734
officer, state watercraft officer, park district police officer, 5735
conservancy district officer, veterans' home police officer, 5736
special police officer for a mental health institution, special 5737
police officer for an institution for the mentally retarded and 5738
developmentally disabled, state university law enforcement 5739
officer, municipal police officer, house sergeant at arms, 5740
assistant house sergeant at arms, regional transit authority 5741
police officer, or state highway patrol police officer. PERS law 5742
enforcement officer also includes a person serving as a municipal 5743
public safety director at any time during the period from 5744
September 29, 2005, to March 24, 2009, if the duties of that 5745
service were to preserve the peace, protect life and property, and 5746
enforce the laws of this state. 5747

(XX) "Hamilton county municipal court bailiff" means a person 5748
appointed by the clerk of courts of the Hamilton county municipal 5749
court under division (A)(3) of section 1901.32 of the Revised Code 5750
who is employed full time as a bailiff or deputy bailiff, who has 5751
received a certificate attesting to the person's satisfactory 5752
completion of the peace officer basic training described in 5753
division (D)(1) of section 109.77 of the Revised Code. 5754

(YY) "PERS public safety officer" means a Hamilton county 5755
municipal court bailiff, or any of the following whose primary 5756
duties are other than to preserve the peace, protect life and 5757
property, and enforce the laws of this state: a deputy sheriff, 5758
township constable or police officer in a township police 5759
department or district, drug agent, department of public safety 5760
enforcement agent, natural resources law enforcement staff 5761

officer, park officer, forest officer, preserve officer, wildlife 5762
officer, state watercraft officer, park district police officer, 5763
conservancy district officer, veterans' home police officer, 5764
special police officer for a mental health institution, special 5765
police officer for an institution for the mentally retarded and 5766
developmentally disabled, state university law enforcement 5767
officer, municipal police officer, house sergeant at arms, 5768
assistant house sergeant at arms, regional transit authority 5769
police officer, or state highway patrol police officer. "PERS 5770
public safety officer" also includes a person serving as a 5771
municipal public safety director at any time during the period 5772
from September 29, 2005, to March 24, 2009, if the duties of that 5773
service were other than to preserve the peace, protect life and 5774
property, and enforce the laws of this state. 5775

(ZZ) "Fiduciary" means a person who does any of the 5776
following: 5777

(1) Exercises any discretionary authority or control with 5778
respect to the management of the system or with respect to the 5779
management or disposition of its assets; 5780

(2) Renders investment advice for a fee, direct or indirect, 5781
with respect to money or property of the system; 5782

(3) Has any discretionary authority or responsibility in the 5783
administration of the system. 5784

(AAA) "Actuary" means an individual who satisfies all of the 5785
following requirements: 5786

(1) Is a member of the American academy of actuaries; 5787

(2) Is an associate or fellow of the society of actuaries; 5788

(3) Has a minimum of five years' experience in providing 5789
actuarial services to public retirement plans. 5790

(BBB) "PERS defined benefit plan" means the plan described in 5791

sections 145.201 to 145.79 of the Revised Code. 5792

(CCC) "PERS defined contribution plans" means the plan or 5793
plans established under section 145.81 of the Revised Code. 5794

Sec. 145.012. (A) "Public employee," as defined in division 5795
(A) of section 145.01 of the Revised Code, does not include any 5796
person: 5797

(1) Who is employed by a private, temporary-help service and 5798
performs services under the direction of a public employer or is 5799
employed on a contractual basis as an independent contractor under 5800
a personal service contract with a public employer; 5801

(2) Who is an emergency employee serving on a temporary basis 5802
in case of fire, snow, earthquake, flood, or other similar 5803
emergency; 5804

(3) Who is employed in a program established pursuant to the 5805
"Job Training Partnership Act," 96 Stat. 1322 (1982), 29 U.S.C.A. 5806
1501; 5807

(4) Who is an appointed member of either the motor vehicle 5808
salvage dealers board or the motor vehicle dealer's board whose 5809
rate and method of payment are determined pursuant to division (J) 5810
of section 124.15 of the Revised Code; 5811

(5) Who is employed as an election worker and paid less than 5812
five hundred dollars per calendar year for that service; 5813

(6) Who is employed as a firefighter in a position requiring 5814
satisfactory completion of a firefighter training course approved 5815
under former section 3303.07 or section 4765.55 of the Revised 5816
Code or conducted under section 3737.33 of the Revised Code except 5817
for the following: 5818

(a) Any firefighter who has elected under section 145.013 of 5819
the Revised Code to remain a contributing member of the public 5820
employees retirement system; 5821

(b) Any firefighter who was eligible to transfer from the public employees retirement system to the Ohio police and fire pension fund under section 742.51 or 742.515 of the Revised Code and did not elect to transfer;	5822 5823 5824 5825
(c) Any firefighter who has elected under section 742.516 of the Revised Code to transfer from the Ohio police and fire pension fund to the public employees retirement system.	5826 5827 5828
(7) Who is a member of the board of health of a city or general health district, which pursuant to sections 3709.051 and 3709.07 of the Revised Code includes a combined health district, and whose compensation for attendance at meetings of the board is set forth in division (B) of section 3709.02 or division (B) of section 3709.05 of the Revised Code, as appropriate;	5829 5830 5831 5832 5833 5834
(8) Who participates in an alternative retirement plan established under Chapter 3305. of the Revised Code;	5835 5836
(9) Who is a member of the board of directors of a sanitary district established under Chapter 6115. of the Revised Code;	5837 5838
(10) Who is a member of the unemployment compensation advisory council;	5839 5840
(11) Who is an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under section 187.01 of the Revised Code;	5841 5842 5843
<u>(12) Who is employed by the nonprofit entity established to provide advocacy services and a client assistance program for people with disabilities under Section 319.20 of Am. Sub. H.B. 153 of the 129th general assembly and whose employment begins on or after October 1, 2012.</u>	5844 5845 5846 5847 5848
(B) No inmate of a correctional institution operated by the department of rehabilitation and correction, no patient in a hospital for the mentally ill or criminally insane operated by the	5849 5850 5851

department of mental health, no resident in an institution for the 5852
mentally retarded operated by the department of developmental 5853
disabilities, no resident admitted as a patient of a veterans' 5854
home operated under Chapter 5907. of the Revised Code, and no 5855
resident of a county home shall be considered as a public employee 5856
for the purpose of establishing membership or calculating service 5857
credit or benefits under this chapter. Nothing in this division 5858
shall be construed to affect any service credit attained by any 5859
person who was a public employee before becoming an inmate, 5860
patient, or resident at any institution listed in this division, 5861
or the payment of any benefit for which such a person or such a 5862
person's beneficiaries otherwise would be eligible. 5863

Sec. 149.43. (A) As used in this section: 5864

(1) "Public record" means records kept by any public office, 5865
including, but not limited to, state, county, city, village, 5866
township, and school district units, and records pertaining to the 5867
delivery of educational services by an alternative school in this 5868
state kept by the nonprofit or for-profit entity operating the 5869
alternative school pursuant to section 3313.533 of the Revised 5870
Code. "Public record" does not mean any of the following: 5871

(a) Medical records; 5872

(b) Records pertaining to probation and parole proceedings or 5873
to proceedings related to the imposition of community control 5874
sanctions and post-release control sanctions; 5875

(c) Records pertaining to actions under section 2151.85 and 5876
division (C) of section 2919.121 of the Revised Code and to 5877
appeals of actions arising under those sections; 5878

(d) Records pertaining to adoption proceedings, including the 5879
contents of an adoption file maintained by the department of 5880
health under section 3705.12 of the Revised Code; 5881

(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;	5882 5883 5884 5885 5886 5887
(f) Records listed in division (A) of section 3107.42 of the Revised Code or specified in division (A) of section 3107.52 of the Revised Code;	5888 5889 5890
(g) Trial preparation records;	5891
(h) Confidential law enforcement investigatory records;	5892
(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;	5893 5894
(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;	5895 5896
(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;	5897 5898 5899 5900
(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;	5901 5902 5903 5904
(m) Intellectual property records;	5905
(n) Donor profile records;	5906
(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;	5907 5908
(p) Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, <u>community-based correctional facility</u>	5909 5910 5911

employee, youth services employee, firefighter, EMT, or 5912
investigator of the bureau of criminal identification and 5913
investigation residential and familial information; 5914

(q) In the case of a county hospital operated pursuant to 5915
Chapter 339. of the Revised Code or a municipal hospital operated 5916
pursuant to Chapter 749. of the Revised Code, information that 5917
constitutes a trade secret, as defined in section 1333.61 of the 5918
Revised Code; 5919

(r) Information pertaining to the recreational activities of 5920
a person under the age of eighteen; 5921

(s) Records provided to, statements made by review board 5922
members during meetings of, and all work products of a child 5923
fatality review board acting under sections 307.621 to 307.629 of 5924
the Revised Code, and child fatality review data submitted by the 5925
child fatality review board to the department of health or a 5926
national child death review database, other than the report 5927
prepared pursuant to division (A) of section 307.626 of the 5928
Revised Code; 5929

(t) Records provided to and statements made by the executive 5930
director of a public children services agency or a prosecuting 5931
attorney acting pursuant to section 5153.171 of the Revised Code 5932
other than the information released under that section; 5933

(u) Test materials, examinations, or evaluation tools used in 5934
an examination for licensure as a nursing home administrator that 5935
the board of examiners of nursing home administrators administers 5936
under section 4751.04 of the Revised Code or contracts under that 5937
section with a private or government entity to administer; 5938

(v) Records the release of which is prohibited by state or 5939
federal law; 5940

(w) Proprietary information of or relating to any person that 5941
is submitted to or compiled by the Ohio venture capital authority 5942

created under section 150.01 of the Revised Code;	5943
(x) Information reported and evaluations conducted pursuant to section 3701.072 of the Revised Code;	5944 5945
(y) Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance from the agency;	5946 5947 5948 5949 5950 5951
(z) Records listed in section 5101.29 of the Revised Code;	5952
(aa) Discharges recorded with a county recorder under section 317.24 of the Revised Code, as specified in division (B)(2) of that section;	5953 5954 5955
(bb) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility.	5956 5957 5958
(2) "Confidential law enforcement investigatory record" means any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:	5959 5960 5961 5962 5963
(a) The identity of a suspect who has not been charged with the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised;	5964 5965 5966 5967
(b) Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity;	5968 5969 5970 5971
(c) Specific confidential investigatory techniques or	5972

procedures or specific investigatory work product; 5973

(d) Information that would endanger the life or physical 5974
safety of law enforcement personnel, a crime victim, a witness, or 5975
a confidential information source. 5976

(3) "Medical record" means any document or combination of 5977
documents, except births, deaths, and the fact of admission to or 5978
discharge from a hospital, that pertains to the medical history, 5979
diagnosis, prognosis, or medical condition of a patient and that 5980
is generated and maintained in the process of medical treatment. 5981

(4) "Trial preparation record" means any record that contains 5982
information that is specifically compiled in reasonable 5983
anticipation of, or in defense of, a civil or criminal action or 5984
proceeding, including the independent thought processes and 5985
personal trial preparation of an attorney. 5986

(5) "Intellectual property record" means a record, other than 5987
a financial or administrative record, that is produced or 5988
collected by or for faculty or staff of a state institution of 5989
higher learning in the conduct of or as a result of study or 5990
research on an educational, commercial, scientific, artistic, 5991
technical, or scholarly issue, regardless of whether the study or 5992
research was sponsored by the institution alone or in conjunction 5993
with a governmental body or private concern, and that has not been 5994
publicly released, published, or patented. 5995

(6) "Donor profile record" means all records about donors or 5996
potential donors to a public institution of higher education 5997
except the names and reported addresses of the actual donors and 5998
the date, amount, and conditions of the actual donation. 5999

(7) "Peace officer, parole officer, probation officer, 6000
bailiff, prosecuting attorney, assistant prosecuting attorney, 6001
correctional employee, community-based correctional facility 6002
employee, youth services employee, firefighter, EMT, or 6003

investigator of the bureau of criminal identification and 6004
investigation residential and familial information" means any 6005
information that discloses any of the following about a peace 6006
officer, parole officer, probation officer, bailiff, prosecuting 6007
attorney, assistant prosecuting attorney, correctional employee, 6008
community-based correctional facility employee, youth services 6009
employee, firefighter, EMT, or investigator of the bureau of 6010
criminal identification and investigation: 6011

(a) The address of the actual personal residence of a peace 6012
officer, parole officer, probation officer, bailiff, assistant 6013
prosecuting attorney, correctional employee, community-based 6014
correctional facility employee, youth services employee, 6015
firefighter, EMT, or an investigator of the bureau of criminal 6016
identification and investigation, except for the state or 6017
political subdivision in which the peace officer, parole officer, 6018
probation officer, bailiff, assistant prosecuting attorney, 6019
correctional employee, community-based correctional facility 6020
employee, youth services employee, firefighter, EMT, or 6021
investigator of the bureau of criminal identification and 6022
investigation resides; 6023

(b) Information compiled from referral to or participation in 6024
an employee assistance program; 6025

(c) The social security number, the residential telephone 6026
number, any bank account, debit card, charge card, or credit card 6027
number, or the emergency telephone number of, or any medical 6028
information pertaining to, a peace officer, parole officer, 6029
probation officer, bailiff, prosecuting attorney, assistant 6030
prosecuting attorney, correctional employee, community-based 6031
correctional facility employee, youth services employee, 6032
firefighter, EMT, or investigator of the bureau of criminal 6033
identification and investigation; 6034

(d) The name of any beneficiary of employment benefits, 6035

including, but not limited to, life insurance benefits, provided 6036
to a peace officer, parole officer, probation officer, bailiff, 6037
prosecuting attorney, assistant prosecuting attorney, correctional 6038
employee, community-based correctional facility employee, youth 6039
services employee, firefighter, EMT, or investigator of the bureau 6040
of criminal identification and investigation by the peace 6041
officer's, parole officer's, probation officer's, bailiff's, 6042
prosecuting attorney's, assistant prosecuting attorney's, 6043
correctional employee's, community-based correctional facility 6044
employee's, youth services employee's, firefighter's, EMT's, or 6045
investigator of the bureau of criminal identification and 6046
investigation's employer; 6047

(e) The identity and amount of any charitable or employment 6048
benefit deduction made by the peace officer's, parole officer's, 6049
probation officer's, bailiff's, prosecuting attorney's, assistant 6050
prosecuting attorney's, correctional employee's, community-based 6051
correctional facility employee's, youth services employee's, 6052
firefighter's, EMT's, or investigator of the bureau of criminal 6053
identification and investigation's employer from the peace 6054
officer's, parole officer's, probation officer's, bailiff's, 6055
prosecuting attorney's, assistant prosecuting attorney's, 6056
correctional employee's, community-based correctional facility 6057
employee's, youth services employee's, firefighter's, EMT's, or 6058
investigator of the bureau of criminal identification and 6059
investigation's compensation unless the amount of the deduction is 6060
required by state or federal law; 6061

(f) The name, the residential address, the name of the 6062
employer, the address of the employer, the social security number, 6063
the residential telephone number, any bank account, debit card, 6064
charge card, or credit card number, or the emergency telephone 6065
number of the spouse, a former spouse, or any child of a peace 6066
officer, parole officer, probation officer, bailiff, prosecuting 6067

attorney, assistant prosecuting attorney, correctional employee, 6068
community-based correctional facility employee, youth services 6069
employee, firefighter, EMT, or investigator of the bureau of 6070
criminal identification and investigation; 6071

(g) A photograph of a peace officer who holds a position or 6072
has an assignment that may include undercover or plain clothes 6073
positions or assignments as determined by the peace officer's 6074
appointing authority. 6075

As used in divisions (A)(7) and (B)(9) of this section, 6076
"peace officer" has the same meaning as in section 109.71 of the 6077
Revised Code and also includes the superintendent and troopers of 6078
the state highway patrol; it does not include the sheriff of a 6079
county or a supervisory employee who, in the absence of the 6080
sheriff, is authorized to stand in for, exercise the authority of, 6081
and perform the duties of the sheriff. 6082

As used in divisions (A)(7) and (B)(5) of this section, 6083
"correctional employee" means any employee of the department of 6084
rehabilitation and correction who in the course of performing the 6085
employee's job duties has or has had contact with inmates and 6086
persons under supervision. 6087

As used in divisions (A)(7) and (B)(5) of this section, 6088
"youth services employee" means any employee of the department of 6089
youth services who in the course of performing the employee's job 6090
duties has or has had contact with children committed to the 6091
custody of the department of youth services. 6092

As used in divisions (A)(7) and (B)(9) of this section, 6093
"firefighter" means any regular, paid or volunteer, member of a 6094
lawfully constituted fire department of a municipal corporation, 6095
township, fire district, or village. 6096

As used in divisions (A)(7) and (B)(9) of this section, "EMT" 6097
means EMTs-basic, EMTs-I, and paramedics that provide emergency 6098

medical services for a public emergency medical service 6099
organization. "Emergency medical service organization," 6100
"EMT-basic," "EMT-I," and "paramedic" have the same meanings as in 6101
section 4765.01 of the Revised Code. 6102

As used in divisions (A)(7) and (B)(9) of this section, 6103
"investigator of the bureau of criminal identification and 6104
investigation" has the meaning defined in section 2903.11 of the 6105
Revised Code. 6106

(8) "Information pertaining to the recreational activities of 6107
a person under the age of eighteen" means information that is kept 6108
in the ordinary course of business by a public office, that 6109
pertains to the recreational activities of a person under the age 6110
of eighteen years, and that discloses any of the following: 6111

(a) The address or telephone number of a person under the age 6112
of eighteen or the address or telephone number of that person's 6113
parent, guardian, custodian, or emergency contact person; 6114

(b) The social security number, birth date, or photographic 6115
image of a person under the age of eighteen; 6116

(c) Any medical record, history, or information pertaining to 6117
a person under the age of eighteen; 6118

(d) Any additional information sought or required about a 6119
person under the age of eighteen for the purpose of allowing that 6120
person to participate in any recreational activity conducted or 6121
sponsored by a public office or to use or obtain admission 6122
privileges to any recreational facility owned or operated by a 6123
public office. 6124

(9) "Community control sanction" has the same meaning as in 6125
section 2929.01 of the Revised Code. 6126

(10) "Post-release control sanction" has the same meaning as 6127
in section 2967.01 of the Revised Code. 6128

(11) "Redaction" means obscuring or deleting any information 6129
that is exempt from the duty to permit public inspection or 6130
copying from an item that otherwise meets the definition of a 6131
"record" in section 149.011 of the Revised Code. 6132

(12) "Designee" and "elected official" have the same meanings 6133
as in section 109.43 of the Revised Code. 6134

(B)(1) Upon request and subject to division (B)(8) of this 6135
section, all public records responsive to the request shall be 6136
promptly prepared and made available for inspection to any person 6137
at all reasonable times during regular business hours. Subject to 6138
division (B)(8) of this section, upon request, a public office or 6139
person responsible for public records shall make copies of the 6140
requested public record available at cost and within a reasonable 6141
period of time. If a public record contains information that is 6142
exempt from the duty to permit public inspection or to copy the 6143
public record, the public office or the person responsible for the 6144
public record shall make available all of the information within 6145
the public record that is not exempt. When making that public 6146
record available for public inspection or copying that public 6147
record, the public office or the person responsible for the public 6148
record shall notify the requester of any redaction or make the 6149
redaction plainly visible. A redaction shall be deemed a denial of 6150
a request to inspect or copy the redacted information, except if 6151
federal or state law authorizes or requires a public office to 6152
make the redaction. 6153

(2) To facilitate broader access to public records, a public 6154
office or the person responsible for public records shall organize 6155
and maintain public records in a manner that they can be made 6156
available for inspection or copying in accordance with division 6157
(B) of this section. A public office also shall have available a 6158
copy of its current records retention schedule at a location 6159
readily available to the public. If a requester makes an ambiguous 6160

or overly broad request or has difficulty in making a request for 6161
copies or inspection of public records under this section such 6162
that the public office or the person responsible for the requested 6163
public record cannot reasonably identify what public records are 6164
being requested, the public office or the person responsible for 6165
the requested public record may deny the request but shall provide 6166
the requester with an opportunity to revise the request by 6167
informing the requester of the manner in which records are 6168
maintained by the public office and accessed in the ordinary 6169
course of the public office's or person's duties. 6170

(3) If a request is ultimately denied, in part or in whole, 6171
the public office or the person responsible for the requested 6172
public record shall provide the requester with an explanation, 6173
including legal authority, setting forth why the request was 6174
denied. If the initial request was provided in writing, the 6175
explanation also shall be provided to the requester in writing. 6176
The explanation shall not preclude the public office or the person 6177
responsible for the requested public record from relying upon 6178
additional reasons or legal authority in defending an action 6179
commenced under division (C) of this section. 6180

(4) Unless specifically required or authorized by state or 6181
federal law or in accordance with division (B) of this section, no 6182
public office or person responsible for public records may limit 6183
or condition the availability of public records by requiring 6184
disclosure of the requester's identity or the intended use of the 6185
requested public record. Any requirement that the requester 6186
disclose the requestor's identity or the intended use of the 6187
requested public record constitutes a denial of the request. 6188

(5) A public office or person responsible for public records 6189
may ask a requester to make the request in writing, may ask for 6190
the requester's identity, and may inquire about the intended use 6191
of the information requested, but may do so only after disclosing 6192

to the requester that a written request is not mandatory and that 6193
the requester may decline to reveal the requester's identity or 6194
the intended use and when a written request or disclosure of the 6195
identity or intended use would benefit the requester by enhancing 6196
the ability of the public office or person responsible for public 6197
records to identify, locate, or deliver the public records sought 6198
by the requester. 6199

(6) If any person chooses to obtain a copy of a public record 6200
in accordance with division (B) of this section, the public office 6201
or person responsible for the public record may require that 6202
person to pay in advance the cost involved in providing the copy 6203
of the public record in accordance with the choice made by the 6204
person seeking the copy under this division. The public office or 6205
the person responsible for the public record shall permit that 6206
person to choose to have the public record duplicated upon paper, 6207
upon the same medium upon which the public office or person 6208
responsible for the public record keeps it, or upon any other 6209
medium upon which the public office or person responsible for the 6210
public record determines that it reasonably can be duplicated as 6211
an integral part of the normal operations of the public office or 6212
person responsible for the public record. When the person seeking 6213
the copy makes a choice under this division, the public office or 6214
person responsible for the public record shall provide a copy of 6215
it in accordance with the choice made by the person seeking the 6216
copy. Nothing in this section requires a public office or person 6217
responsible for the public record to allow the person seeking a 6218
copy of the public record to make the copies of the public record. 6219

(7) Upon a request made in accordance with division (B) of 6220
this section and subject to division (B)(6) of this section, a 6221
public office or person responsible for public records shall 6222
transmit a copy of a public record to any person by United States 6223
mail or by any other means of delivery or transmission within a 6224

reasonable period of time after receiving the request for the 6225
copy. The public office or person responsible for the public 6226
record may require the person making the request to pay in advance 6227
the cost of postage if the copy is transmitted by United States 6228
mail or the cost of delivery if the copy is transmitted other than 6229
by United States mail, and to pay in advance the costs incurred 6230
for other supplies used in the mailing, delivery, or transmission. 6231

Any public office may adopt a policy and procedures that it 6232
will follow in transmitting, within a reasonable period of time 6233
after receiving a request, copies of public records by United 6234
States mail or by any other means of delivery or transmission 6235
pursuant to this division. A public office that adopts a policy 6236
and procedures under this division shall comply with them in 6237
performing its duties under this division. 6238

In any policy and procedures adopted under this division, a 6239
public office may limit the number of records requested by a 6240
person that the office will transmit by United States mail to ten 6241
per month, unless the person certifies to the office in writing 6242
that the person does not intend to use or forward the requested 6243
records, or the information contained in them, for commercial 6244
purposes. For purposes of this division, "commercial" shall be 6245
narrowly construed and does not include reporting or gathering 6246
news, reporting or gathering information to assist citizen 6247
oversight or understanding of the operation or activities of 6248
government, or nonprofit educational research. 6249

(8) A public office or person responsible for public records 6250
is not required to permit a person who is incarcerated pursuant to 6251
a criminal conviction or a juvenile adjudication to inspect or to 6252
obtain a copy of any public record concerning a criminal 6253
investigation or prosecution or concerning what would be a 6254
criminal investigation or prosecution if the subject of the 6255
investigation or prosecution were an adult, unless the request to 6256

inspect or to obtain a copy of the record is for the purpose of 6257
acquiring information that is subject to release as a public 6258
record under this section and the judge who imposed the sentence 6259
or made the adjudication with respect to the person, or the 6260
judge's successor in office, finds that the information sought in 6261
the public record is necessary to support what appears to be a 6262
justiciable claim of the person. 6263

(9)(a) Upon written request made and signed by a journalist 6264
on or after December 16, 1999, a public office, or person 6265
responsible for public records, having custody of the records of 6266
the agency employing a specified peace officer, parole officer, 6267
probation officer, bailiff, prosecuting attorney, assistant 6268
prosecuting attorney, correctional employee, youth services 6269
employee, firefighter, EMT, or investigator of the bureau of 6270
criminal identification and investigation shall disclose to the 6271
journalist the address of the actual personal residence of the 6272
peace officer, parole officer, probation officer, bailiff, 6273
prosecuting attorney, assistant prosecuting attorney, correctional 6274
employee, youth services employee, firefighter, EMT, or 6275
investigator of the bureau of criminal identification and 6276
investigation and, if the peace officer's, parole officer's, 6277
probation officer's, bailiff's, prosecuting attorney's, assistant 6278
prosecuting attorney's, correctional employee's, youth services 6279
employee's, firefighter's, EMT's, or investigator of the bureau of 6280
criminal identification and investigation's spouse, former spouse, 6281
or child is employed by a public office, the name and address of 6282
the employer of the peace officer's, parole officer's, probation 6283
officer's, bailiff's, prosecuting attorney's, assistant 6284
prosecuting attorney's, correctional employee's, youth services 6285
employee's, firefighter's, EMT's, or investigator of the bureau of 6286
criminal identification and investigation's spouse, former spouse, 6287
or child. The request shall include the journalist's name and 6288
title and the name and address of the journalist's employer and 6289

shall state that disclosure of the information sought would be in 6290
the public interest. 6291

(b) Division (B)(9)(a) of this section also applies to 6292
journalist requests for customer information maintained by a 6293
municipally owned or operated public utility, other than social 6294
security numbers and any private financial information such as 6295
credit reports, payment methods, credit card numbers, and bank 6296
account information. 6297

(c) As used in division (B)(9) of this section, "journalist" 6298
means a person engaged in, connected with, or employed by any news 6299
medium, including a newspaper, magazine, press association, news 6300
agency, or wire service, a radio or television station, or a 6301
similar medium, for the purpose of gathering, processing, 6302
transmitting, compiling, editing, or disseminating information for 6303
the general public. 6304

(C)(1) If a person allegedly is aggrieved by the failure of a 6305
public office or the person responsible for public records to 6306
promptly prepare a public record and to make it available to the 6307
person for inspection in accordance with division (B) of this 6308
section or by any other failure of a public office or the person 6309
responsible for public records to comply with an obligation in 6310
accordance with division (B) of this section, the person allegedly 6311
aggrieved may commence a mandamus action to obtain a judgment that 6312
orders the public office or the person responsible for the public 6313
record to comply with division (B) of this section, that awards 6314
court costs and reasonable attorney's fees to the person that 6315
instituted the mandamus action, and, if applicable, that includes 6316
an order fixing statutory damages under division (C)(1) of this 6317
section. The mandamus action may be commenced in the court of 6318
common pleas of the county in which division (B) of this section 6319
allegedly was not complied with, in the supreme court pursuant to 6320
its original jurisdiction under Section 2 of Article IV, Ohio 6321

Constitution, or in the court of appeals for the appellate 6322
district in which division (B) of this section allegedly was not 6323
complied with pursuant to its original jurisdiction under Section 6324
3 of Article IV, Ohio Constitution. 6325

If a requestor transmits a written request by hand delivery 6326
or certified mail to inspect or receive copies of any public 6327
record in a manner that fairly describes the public record or 6328
class of public records to the public office or person responsible 6329
for the requested public records, except as otherwise provided in 6330
this section, the requestor shall be entitled to recover the 6331
amount of statutory damages set forth in this division if a court 6332
determines that the public office or the person responsible for 6333
public records failed to comply with an obligation in accordance 6334
with division (B) of this section. 6335

The amount of statutory damages shall be fixed at one hundred 6336
dollars for each business day during which the public office or 6337
person responsible for the requested public records failed to 6338
comply with an obligation in accordance with division (B) of this 6339
section, beginning with the day on which the requester files a 6340
mandamus action to recover statutory damages, up to a maximum of 6341
one thousand dollars. The award of statutory damages shall not be 6342
construed as a penalty, but as compensation for injury arising 6343
from lost use of the requested information. The existence of this 6344
injury shall be conclusively presumed. The award of statutory 6345
damages shall be in addition to all other remedies authorized by 6346
this section. 6347

The court may reduce an award of statutory damages or not 6348
award statutory damages if the court determines both of the 6349
following: 6350

(a) That, based on the ordinary application of statutory law 6351
and case law as it existed at the time of the conduct or 6352
threatened conduct of the public office or person responsible for 6353

the requested public records that allegedly constitutes a failure 6354
to comply with an obligation in accordance with division (B) of 6355
this section and that was the basis of the mandamus action, a 6356
well-informed public office or person responsible for the 6357
requested public records reasonably would believe that the conduct 6358
or threatened conduct of the public office or person responsible 6359
for the requested public records did not constitute a failure to 6360
comply with an obligation in accordance with division (B) of this 6361
section; 6362

(b) That a well-informed public office or person responsible 6363
for the requested public records reasonably would believe that the 6364
conduct or threatened conduct of the public office or person 6365
responsible for the requested public records would serve the 6366
public policy that underlies the authority that is asserted as 6367
permitting that conduct or threatened conduct. 6368

(2)(a) If the court issues a writ of mandamus that orders the 6369
public office or the person responsible for the public record to 6370
comply with division (B) of this section and determines that the 6371
circumstances described in division (C)(1) of this section exist, 6372
the court shall determine and award to the relator all court 6373
costs. 6374

(b) If the court renders a judgment that orders the public 6375
office or the person responsible for the public record to comply 6376
with division (B) of this section, the court may award reasonable 6377
attorney's fees subject to reduction as described in division 6378
(C)(2)(c) of this section. The court shall award reasonable 6379
attorney's fees, subject to reduction as described in division 6380
(C)(2)(c) of this section when either of the following applies: 6381

(i) The public office or the person responsible for the 6382
public records failed to respond affirmatively or negatively to 6383
the public records request in accordance with the time allowed 6384
under division (B) of this section. 6385

(ii) The public office or the person responsible for the public records promised to permit the relator to inspect or receive copies of the public records requested within a specified period of time but failed to fulfill that promise within that specified period of time.

(c) Court costs and reasonable attorney's fees awarded under this section shall be construed as remedial and not punitive. Reasonable attorney's fees shall include reasonable fees incurred to produce proof of the reasonableness and amount of the fees and to otherwise litigate entitlement to the fees. The court may reduce an award of attorney's fees to the relator or not award attorney's fees to the relator if the court determines both of the following:

(i) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(ii) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records as described in division (C)(2)(c)(i) of this section would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(D) Chapter 1347. of the Revised Code does not limit the 6418
provisions of this section. 6419

(E)(1) To ensure that all employees of public offices are 6420
appropriately educated about a public office's obligations under 6421
division (B) of this section, all elected officials or their 6422
appropriate designees shall attend training approved by the 6423
attorney general as provided in section 109.43 of the Revised 6424
Code. In addition, all public offices shall adopt a public records 6425
policy in compliance with this section for responding to public 6426
records requests. In adopting a public records policy under this 6427
division, a public office may obtain guidance from the model 6428
public records policy developed and provided to the public office 6429
by the attorney general under section 109.43 of the Revised Code. 6430
Except as otherwise provided in this section, the policy may not 6431
limit the number of public records that the public office will 6432
make available to a single person, may not limit the number of 6433
public records that it will make available during a fixed period 6434
of time, and may not establish a fixed period of time before it 6435
will respond to a request for inspection or copying of public 6436
records, unless that period is less than eight hours. 6437

(2) The public office shall distribute the public records 6438
policy adopted by the public office under division (E)(1) of this 6439
section to the employee of the public office who is the records 6440
custodian or records manager or otherwise has custody of the 6441
records of that office. The public office shall require that 6442
employee to acknowledge receipt of the copy of the public records 6443
policy. The public office shall create a poster that describes its 6444
public records policy and shall post the poster in a conspicuous 6445
place in the public office and in all locations where the public 6446
office has branch offices. The public office may post its public 6447
records policy on the internet web site of the public office if 6448
the public office maintains an internet web site. A public office 6449

that has established a manual or handbook of its general policies 6450
and procedures for all employees of the public office shall 6451
include the public records policy of the public office in the 6452
manual or handbook. 6453

(F)(1) The bureau of motor vehicles may adopt rules pursuant 6454
to Chapter 119. of the Revised Code to reasonably limit the number 6455
of bulk commercial special extraction requests made by a person 6456
for the same records or for updated records during a calendar 6457
year. The rules may include provisions for charges to be made for 6458
bulk commercial special extraction requests for the actual cost of 6459
the bureau, plus special extraction costs, plus ten per cent. The 6460
bureau may charge for expenses for redacting information, the 6461
release of which is prohibited by law. 6462

(2) As used in division (F)(1) of this section: 6463

(a) "Actual cost" means the cost of depleted supplies, 6464
records storage media costs, actual mailing and alternative 6465
delivery costs, or other transmitting costs, and any direct 6466
equipment operating and maintenance costs, including actual costs 6467
paid to private contractors for copying services. 6468

(b) "Bulk commercial special extraction request" means a 6469
request for copies of a record for information in a format other 6470
than the format already available, or information that cannot be 6471
extracted without examination of all items in a records series, 6472
class of records, or data base by a person who intends to use or 6473
forward the copies for surveys, marketing, solicitation, or resale 6474
for commercial purposes. "Bulk commercial special extraction 6475
request" does not include a request by a person who gives 6476
assurance to the bureau that the person making the request does 6477
not intend to use or forward the requested copies for surveys, 6478
marketing, solicitation, or resale for commercial purposes. 6479

(c) "Commercial" means profit-seeking production, buying, or 6480

selling of any good, service, or other product. 6481

(d) "Special extraction costs" means the cost of the time 6482
spent by the lowest paid employee competent to perform the task, 6483
the actual amount paid to outside private contractors employed by 6484
the bureau, or the actual cost incurred to create computer 6485
programs to make the special extraction. "Special extraction 6486
costs" include any charges paid to a public agency for computer or 6487
records services. 6488

(3) For purposes of divisions (F)(1) and (2) of this section, 6489
"surveys, marketing, solicitation, or resale for commercial 6490
purposes" shall be narrowly construed and does not include 6491
reporting or gathering news, reporting or gathering information to 6492
assist citizen oversight or understanding of the operation or 6493
activities of government, or nonprofit educational research. 6494

Sec. 152.18. Whenever the Ohio building authority constructs, 6495
reconstructs, rehabilitates, remodels, renovates, enlarges, 6496
improves, alters, maintains, equips, furnishes, repairs, paints, 6497
or decorates capital facilities pursuant to section 152.19, 6498
152.21, or 152.31 of the Revised Code or buildings, facilities, 6499
and other properties for use and occupancy of persons pursuant to 6500
section 152.04 of the Revised Code, the authority shall make the 6501
necessary plans and specifications, and shall advertise for bids 6502
for all work to be placed under contract once a week for two 6503
consecutive weeks in a newspaper of general circulation in the 6504
county within which the work is to be done, and shall award the 6505
contract to the lowest responsive and responsible bidder in 6506
accordance with section 9.312 of the Revised Code. When the 6507
authority determines, subject to approval by the controlling 6508
board, that a real and present emergency exists or if the cost of 6509
such a contract does not exceed fifty thousand dollars, such a 6510
contract may be awarded without advertising and receipt of bids. A 6511

bid guaranty pursuant to sections 153.54 to 153.571 of the Revised Code shall be required for any contract under this section.

In all other cases of capital facilities financed by the authority, the construction, reconstruction, ~~rehabilitation,~~ ~~remodeling,~~ ~~renovation,~~ enlargement, improvement, alteration, ~~maintenance,~~ ~~equipping,~~ ~~furnishing,~~ repair, painting, or decoration of capital facilities by or for the state or any governmental entity shall be the responsibility of the ~~department of administrative services~~ Ohio facilities construction commission or, with the consent of the ~~department of administrative services~~ Ohio facilities construction commission, shall be the responsibility of the state agency using the capital facility, or the governmental entity with which a state agency is participating pursuant to section 152.33 of the Revised Code, and shall be undertaken by the ~~department~~ commission in compliance with Chapter 153. of the Revised Code, or by such state agency or governmental entity in accordance with otherwise applicable law. The rehabilitation, remodeling, renovation, maintenance, equipping, or furnishing of capital facilities by or for the state or any governmental entity shall be the responsibility of the department of administrative services or, with the consent of the department, the state agency or other governmental entity that is using the capital facility.

Sec. 152.24. (A) Except as otherwise provided with respect to leasing of capital facilities in sections 152.241, 152.242, 152.31, and 152.33 of the Revised Code, the department of administrative services or, with the consent of the department of administrative services, the state agency using an office facility and related storage and parking facilities, or participating in such facilities pursuant to section 152.33 of the Revised Code, shall lease any office facility and related storage and parking facility acquired, purchased, constructed, reconstructed,

rehabilitated, remodeled, renovated, enlarged, improved, altered, 6544
operated, maintained, equipped, furnished, repaired, painted, 6545
decorated, or financed by the Ohio building authority for housing 6546
any state agencies. An agreement between the authority and the 6547
department of administrative services or such using or 6548
participating agency may provide for the transfer of the property 6549
to the state after bonds and notes issued by the authority for the 6550
purpose of the acquisition, purchase, construction, 6551
reconstruction, rehabilitation, remodeling, renovation, 6552
enlargement, improvement, alteration, equipping, furnishing, 6553
repair, painting, decorating, or financing of such building or 6554
facility have been repaid. A lease between the authority and the 6555
department of administrative services or a using or participating 6556
agency shall be for a period not exceeding the then current 6557
two-year period for which appropriations have been made by the 6558
general assembly to the department of administrative services and 6559
the state agencies which will occupy or participate in the office 6560
facility and related storage and parking facility being leased, 6561
and such lease may contain such other terms as the department of 6562
administrative services, or a using or participating agency, and 6563
the authority agree notwithstanding any other provision of law, 6564
including provision that rental payments in amounts at least 6565
sufficient to pay bond service charges payable during the current 6566
two-year lease term shall be an absolute and unconditional 6567
obligation of the department of administrative services, or the 6568
using or participating agency, independent of all other duties 6569
under the lease without setoff or deduction or any other similar 6570
rights or defenses. Such an agreement may provide for renewal of a 6571
lease at the end of each term for another term, not exceeding two 6572
years, provided that no renewal shall be effective until the 6573
effective date of an appropriation enacted by the general assembly 6574
from which the department of administrative services, or the using 6575
or participating agency, may lawfully pay rentals under such 6576

lease. For purposes of this section, the term "lease" may include, 6577
without limitation, any agreement between the department of 6578
administrative services, or the using or participating agency, and 6579
the authority with respect to any costs of capital facilities to 6580
be incurred prior to land acquisition. 6581

(B) If the director of administrative services or the 6582
director of a state agency using or participating in an office 6583
facility and related storage and parking facility certifies that 6584
space in such facility acquired, purchased, constructed, 6585
reconstructed, rehabilitated, remodeled, renovated, enlarged, 6586
improved, altered, operated, maintained, equipped, furnished, 6587
repaired, painted, decorated, or financed by the authority has 6588
become unnecessary for state use, the authority may lease any 6589
excess space in such facility and related storage and parking 6590
facility to any governmental entity. 6591

(C) If space in any office facility leased by the authority 6592
to the department of administrative services is not immediately 6593
necessary for state use, the department of administrative services 6594
may exercise its authority under division (A)~~(9)~~(5) of section 6595
123.01 of the Revised Code with respect to such space. 6596

(D) Capital facilities acquired, purchased, constructed, 6597
reconstructed, rehabilitated, remodeled, renovated, enlarged, 6598
improved, altered, operated, maintained, equipped, furnished, 6599
repaired, painted, decorated, or financed by the Ohio building 6600
authority, other than any office facility and related storage and 6601
parking facility required to be leased pursuant to division (A) of 6602
this section, shall be leased to the department of administrative 6603
services, the state agency using the capital facilities, or the 6604
state agency participating in the capital facilities pursuant to 6605
section 152.33 of the Revised Code. The department of 6606
administrative services or the using or participating state agency 6607
may sublease such capital facilities to other state agencies or 6608

other governmental entities. Such parties, including other state 6609
agencies or state-supported or state-assisted institutions of 6610
higher education, may make other agreements for the use, 6611
construction, or operation of such capital facilities in any 6612
manner permitted by the lease or agreement with the authority and 6613
for the charging, collection, and deposit of such revenues and 6614
receipts of the using or participating state agency constituting 6615
available receipts, all upon such terms and conditions as the 6616
parties may agree upon and pursuant to this chapter 6617
notwithstanding other provisions of law affecting the leasing, 6618
acquisition, operation, or disposition of capital facilities by 6619
such parties. Any such lease between the authority and the 6620
department of administrative services or a using or participating 6621
state agency shall be for a period not to exceed the then current 6622
two-year period for which appropriations have been made by the 6623
general assembly to the department of administrative services or 6624
such using or participating state agency. The lease between the 6625
authority and the department of administrative services or the 6626
using or participating state agency may provide for renewal of the 6627
lease at the end of each term for another term, not exceeding two 6628
years, but no renewal shall be effective until the effective date 6629
of an appropriation enacted by the general assembly from which the 6630
department of administrative services or the using or 6631
participating state agency may lawfully pay rentals under such 6632
lease. Any such leases, subleases, or agreements may set forth the 6633
responsibilities of the authority, state agencies, 6634
state-supported, or state-assisted institutions of higher 6635
education, or other governmental entities as to the financing, 6636
assessment, planning, acquisition, purchase, construction, 6637
reconstruction, rehabilitation, remodeling, renovation, 6638
enlargement, improvement, alteration, subleasing, management, 6639
operation, maintenance, equipping, furnishing, repair, painting, 6640
decorating, and insuring of such capital facilities and other 6641

terms and conditions applicable thereto, and any other provisions 6642
mutually agreed upon for the purposes of this chapter. Promptly 6643
upon execution thereof, a signed or conformed copy of each such 6644
lease or sublease or agreement, and any supplement thereto, 6645
between the authority and a governmental entity shall be filed by 6646
the authority with the department of administrative services and 6647
the director of budget and management, and, promptly upon 6648
execution thereof, a signed or conformed copy of each such 6649
sublease or agreement between two governmental entities, not 6650
including the authority, shall be filed with the authority and the 6651
director of budget and management. For purposes of this section, 6652
the term "lease" may include, without limitation, any agreement 6653
between the department of administrative services or the state 6654
agency using or participating in such capital facilities and the 6655
authority with respect to any costs of capital facilities to be 6656
incurred prior to land acquisition. 6657

(E) The transfer of tangible personal property by lease under 6658
authority of this chapter is not a sale as used in Chapter 5739. 6659
of the Revised Code. Any agreement of a governmental entity to 6660
make rental, use, or other payments or payment of purchase price, 6661
in installments or otherwise, or repayments to or on account of 6662
the authority and the obligations issued by the authority, shall 6663
not be deemed to constitute indebtedness, bonded or otherwise, or 6664
bonds, notes, or other evidence of indebtedness of such 6665
governmental entity for the purpose of Chapter 133. of the Revised 6666
Code or any other purpose; such leases and agreements requiring 6667
payments beyond the current fiscal year are continuing contracts 6668
for the purposes of sections 5705.41 and 5705.44 of the Revised 6669
Code. 6670

(F) Any agreement between the department of administrative 6671
services or the state agency using or participating in such 6672
capital facilities and the authority that includes provision for 6673

the use of space by such using or participating state agency or 6674
the department of administrative services, even if executed prior 6675
to land acquisition or completion of construction, improvements, 6676
or financing, shall be a lease for purposes of this chapter and 6677
for all other purposes. No such lease need be recorded or 6678
recordable for purposes of determining its validity or legal 6679
sufficiency. 6680

Sec. 153.01. (A) Whenever any building or structure for the 6681
use of the state or any institution supported in whole or in part 6682
by the state or in or upon the public works of the state that is 6683
administered by the ~~director of administrative services~~ Ohio 6684
facilities construction commission or by any other state officer 6685
or state agency authorized by law to administer a project, 6686
including an educational institution listed in section 3345.50 of 6687
the Revised Code, is to be erected or constructed, whenever 6688
additions, alterations, or structural or other improvements are to 6689
be made, or whenever heating, cooling, or ventilating plants or 6690
other equipment is to be installed or material supplied therefor, 6691
the estimated cost of which amounts to two hundred thousand 6692
dollars or more, or the amount determined pursuant to section 6693
153.53 of the Revised Code or more, each officer, board, or other 6694
authority upon which devolves the duty of constructing, erecting, 6695
altering, or installing the same, referred to in sections 153.01 6696
to 153.60 of the Revised Code as the public authority, shall cause 6697
to be made, by an architect or engineer whose contract of 6698
employment shall be prepared and approved by the attorney general, 6699
the following: 6700

(1) Full and accurate plans, suitable for the use of 6701
mechanics and other builders in the construction, improvement, 6702
addition, alteration, or installation; 6703

(2) Details to scale and full-sized, so drawn and represented 6704

as to be easily understood; 6705

(3) Definite and complete specifications of the work to be 6706
performed, together with directions that will enable a competent 6707
mechanic or other builder to carry them out and afford bidders all 6708
needful information; 6709

(4) A full and accurate estimate of each item of expense and 6710
the aggregate cost of those items of expense; 6711

(5) A life-cycle cost analysis; 6712

(6) Further data as may be required by the ~~department of~~ 6713
~~administrative services~~ Ohio facilities construction commission. 6714

(B) Division (A) of this section shall not be required with 6715
respect to a construction management contract entered into with a 6716
construction manager at risk as described in section 9.334 of the 6717
Revised Code or a design-build contract entered into with a 6718
design-build firm as described in section 153.693 of the Revised 6719
Code. 6720

Sec. 153.011. (A) Except as provided in division (D) of this 6721
section, whenever any building or structure, including highway 6722
improvements, in whole or in part supported by state capital 6723
funds, including moneys from the education facilities trust fund, 6724
is to be erected or constructed, or whenever additions, 6725
alterations, or structural or other improvements are to be made, 6726
if any steel products are to be purchased for or provided in the 6727
construction, repair, or improvement project, only steel products 6728
as defined in division (F) of this section shall be purchased for 6729
or provided in the project. 6730

(B)(1) No person shall purchase or provide steel products in 6731
violation of division (A) of this section. 6732

(2) Notwithstanding division (B) of section 153.99 of the 6733
Revised Code, no person who purchases steel products in violation 6734

of division (A) of this section shall be held liable in a civil 6735
action commenced under division (C) of this section, or pay a 6736
civil penalty under division (B) of section 153.99 of the Revised 6737
Code, if that person can demonstrate the person's compliance with 6738
division (E) of this section. 6739

(C) Whenever the executive director of ~~administrative~~ 6740
~~services~~ the Ohio facilities construction commission has 6741
reasonable cause to believe that any person has purchased or 6742
provided steel products in violation of division (A) of this 6743
section, the executive director shall conduct an investigation to 6744
determine whether the person has purchased or provided or is 6745
purchasing or providing steel products in violation of division 6746
(A) of this section. Upon conducting the investigation, if the 6747
executive director finds that the person has purchased or provided 6748
or is purchasing or providing steel products in violation of 6749
division (A) of this section, the executive director shall request 6750
the attorney general to commence a civil action under this section 6751
against the person for violating division (A) of this section. The 6752
remedy provided in this section is concurrent with any other 6753
remedy provided in this chapter, and the existence or exercise of 6754
one remedy does not prevent the exercise of any other. Upon 6755
collection of the civil penalty under division (B) of section 6756
153.99 of the Revised Code, pursuant to an action authorized under 6757
this section, the attorney general shall pay the money collected 6758
to the treasurer of the board of education of the city, local, or 6759
exempted village school district and joint vocational school 6760
district, if one exists, in which the construction, repair, or 6761
improvement project for which the steel products used in violation 6762
of division (A) of this section is located. The treasurer shall 6763
deposit the civil penalty in equal amounts into the school 6764
district's general fund and the joint vocational school district's 6765
general fund. If a joint vocational school district does not exist 6766
where the violation occurred, then the entire sum of the civil 6767

penalty shall be deposited into the school district's general fund. 6768
6769

(D) Pursuant to section 5525.21 of the Revised Code, the director of transportation may authorize the purchase or provision or both of a minimal amount of foreign steel products for use in contracts for public bridge projects. 6770
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The executive director of ~~administrative services~~ the Ohio facilities construction commission may waive the requirements of division (A) of this section if the executive director determines that either division (A) or (B) of section 5525.21 of the Revised Code is true in connection with a public bridge project. The executive director shall issue this determination in writing. 6774
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(E) The following notice shall be included in boldface type and capital letters in all bid notifications and specifications between all parties to any contract authorized under Chapter 153. of the Revised Code or subject to this section and section 153.99 of the Revised Code: "Domestic steel use requirements as specified in section 153.011 of the Revised Code apply to this project. Copies of section 153.011 of the Revised Code can be obtained from ~~any of the offices~~ office of the ~~department of administrative services~~ Ohio facilities construction commission." 6780
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(F) As used in this section: 6789

(1) "Steel products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more of such operations, and used for load-bearing structural purposes, from steel made in the United States by the open hearth, basic oxygen, electric furnace, bessemer or other steel making process. 6790
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(2) "United States" means the United States of America and includes all territory, continental or insular, subject to the jurisdiction of the United States. 6796
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Sec. 153.013. If a project for the construction, alteration, 6799
or other improvement of a building or structure is administered by 6800
the executive director of ~~administrative services~~ the Ohio 6801
facilities construction commission or by another state agency 6802
authorized to administer a project under this chapter, if the 6803
project is located in a municipal corporation with a population of 6804
at least four hundred thousand that is in a county with a 6805
population of at least one million two hundred thousand, and if a 6806
political subdivision contributes at least one hundred thousand 6807
dollars to the project, then a contractor for the project shall 6808
comply with regulations or ordinances of the political subdivision 6809
that are in effect before July 1, 2009, and that specifically 6810
relate to the employment of residents and local businesses of the 6811
political subdivision in the performance of the work of the 6812
project, and such ordinances or regulations shall be included by 6813
reference unambiguously in the contract between the administering 6814
state agency and the contractor for the project. 6815

Sec. 153.02. (A) The executive director of ~~administrative~~ 6816
~~services, on the director's own initiative or upon request of the~~ 6817
Ohio ~~school~~ facilities construction commission, may debar a 6818
contractor from contract awards for public improvements as 6819
referred to in section 153.01 of the Revised Code or for projects 6820
as defined in section 3318.01 of the Revised Code, upon proof that 6821
the contractor has done any of the following: 6822

(1) Defaulted on a contract requiring the execution of a 6823
takeover agreement as set forth in division (B) of section 153.17 6824
of the Revised Code; 6825

(2) Knowingly failed during the course of a contract to 6826
maintain the coverage required by the bureau of workers' 6827
compensation; 6828

(3) Knowingly failed during the course of a contract to maintain the contractor's drug-free workplace program as required by the contract;

(4) Knowingly failed during the course of a contract to maintain insurance required by the contract or otherwise by law, resulting in a substantial loss to the owner, as owner is referred to in section 153.01 of the Revised Code, or to the commission and school district board, as provided in division (F) of section 3318.08 of the Revised Code;

(5) Misrepresented the firm's qualifications in the selection process set forth in sections 153.65 to 153.71 or section 3318.10 of the Revised Code;

(6) Been convicted of a criminal offense related to the application for or performance of any public or private contract, including, but not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, and any other offense that directly reflects on the contractor's business integrity;

(7) Been convicted of a criminal offense under state or federal antitrust laws;

(8) Deliberately or willfully submitted false or misleading information in connection with the application for or performance of a public contract;

(9) Been debarred from bidding on or participating in a contract with any state or federal agency.

(B) When the executive director reasonably believes that grounds for debarment exist, the executive director shall send the contractor a notice of proposed debarment indicating the grounds for the proposed debarment and the procedure for requesting a hearing on the proposed debarment. The hearing shall be conducted in accordance with Chapter 119. of the Revised Code. If the

contractor does not respond with a request for a hearing in the 6860
manner specified in Chapter 119. of the Revised Code, the 6861
executive director shall issue the debarment decision without a 6862
hearing and shall notify the contractor of the decision by 6863
certified mail, return receipt requested. 6864

(C) The executive director shall determine the length of the 6865
debarment period and may rescind the debarment at any time upon 6866
notification to the contractor. During the period of debarment, 6867
the contractor is not eligible to bid for or participate in any 6868
contract for a public improvement as referred to in section 153.01 6869
of the Revised Code or for a project as defined in section 3318.01 6870
of the Revised Code. After the debarment period expires, the 6871
contractor shall be eligible to bid for and participate in such 6872
contracts. 6873

(D) The executive director, ~~through the office of the state~~ 6874
~~architect~~, shall maintain a list of all contractors currently 6875
debarred under this section. Any governmental entity awarding a 6876
contract for construction of a public improvement or project may 6877
use a contractor's presence on the debarment list to determine 6878
whether a contractor is responsible or best under section 9.312 or 6879
any other section of the Revised Code in the award of a contract. 6880

Sec. 153.04. The plans, details, bills of material, 6881
specifications of work, estimates of cost in detail and in the 6882
aggregate, life-cycle cost analysis, form of bid, bid guaranty, 6883
and other data that may be required shall be prepared on such 6884
material and in such manner and form as are prescribed by the 6885
~~department of administrative services~~ Ohio facilities construction 6886
commission. The life-cycle costs shall be a primary consideration 6887
in the selection of a design. The same shall be deposited and 6888
safely kept in the office of the owner as defined in section 6889
153.01 of the Revised Code as the property of the state. 6890

Sec. 153.06. After the proceedings required by sections 6891
153.01 and 153.04 of the Revised Code have been complied with, the 6892
owner referred to in section 153.01 of the Revised Code shall give 6893
public notice of the time and place when and where bids will be 6894
received for performing the labor and furnishing the materials of 6895
such construction, improvement, alteration, addition, or 6896
installation, and a contract awarded, except for materials 6897
manufactured by the state or labor supplied by a county department 6898
of job and family services that may enter into the same. The form 6899
of bid approved by the ~~department of administrative services~~ Ohio 6900
facilities construction commission shall be used, and a bid shall 6901
be invalid and not considered unless such form is used without 6902
change, alteration, or addition. Bidders may be permitted to bid 6903
upon all the branches of work and materials to be furnished and 6904
supplied, or upon any thereof, or alternately upon all or any 6905
thereof. 6906

Sec. 153.07. The notice provided for in section 153.06 of the 6907
Revised Code shall be published once each week for three 6908
consecutive weeks in a newspaper of general circulation, or as 6909
provided in section 7.16 of the Revised Code, in the county where 6910
the activity for which bids are submitted is to occur and in such 6911
other newspapers as ordered by the ~~department of administrative~~ 6912
~~services~~ Ohio facilities construction commission, the last 6913
publication to be at least eight days preceding the day for 6914
opening the bids, and in such form and with such phraseology as 6915
the ~~department~~ commission orders. Copies of the plans, details, 6916
estimates of cost, and specifications shall be open to public 6917
inspection at all business hours between the day of the first 6918
publication and the day for opening the bids, at the office of the 6919
~~department~~ commission where the bids are received, and such other 6920
place as may be designated in such notice. 6921

Sec. 153.08. On the day and at the place named in the notice 6922
provided for in section 153.06 of the Revised Code, the owner 6923
referred to in section 153.01 of the Revised Code shall open the 6924
bids and shall publicly, with the assistance of the architect or 6925
engineer, immediately proceed to tabulate the bids upon duplicate 6926
sheets. The public bid opening may be broadcast by electronic 6927
means pursuant to rules established by the ~~director of~~ 6928
~~administrative services~~ Ohio facilities construction commission. A 6929
bid shall be invalid and not considered unless a bid guaranty 6930
meeting the requirements of section 153.54 of the Revised Code and 6931
in the form approved by the ~~department of administrative services~~ 6932
commission is filed with such bid. For a bid that is not filed 6933
electronically, the bid and bid guaranty shall be filed in one 6934
sealed envelope. If the bid and bid guaranty are filed 6935
electronically, they must be received electronically before the 6936
deadline published pursuant to section 153.06 of the Revised Code. 6937
For all bids filed electronically, the original, unaltered bid 6938
guaranty shall be made available to the public authority after the 6939
public bid opening. After investigation, which shall be completed 6940
within thirty days, the contract shall be awarded by such owner to 6941
the lowest responsive and responsible bidder in accordance with 6942
section 9.312 of the Revised Code. 6943

No contract shall be entered into until the industrial 6944
commission has certified that the person so awarded the contract 6945
has complied with sections 4123.01 to 4123.94 of the Revised Code, 6946
until, if the bidder so awarded the contract is a foreign 6947
corporation, the secretary of state has certified that such 6948
corporation is authorized to do business in this state, until, if 6949
the bidder so awarded the contract is a person nonresident of this 6950
state, such person has filed with the secretary of state a power 6951
of attorney designating the secretary of state as its agent for 6952
the purpose of accepting service of summons in any action brought 6953

under section 153.05 of the Revised Code or under sections 4123.01 6954
to 4123.94 of the Revised Code, and until the contract and bond, 6955
if any, are submitted to the attorney general and the attorney 6956
general's approval certified thereon. 6957

No contract shall be entered into unless the bidder possesses 6958
a valid certificate of compliance with affirmative action programs 6959
issued pursuant to section 9.47 of the Revised Code and dated no 6960
earlier than one hundred eighty days prior to the date fixed for 6961
the opening of bids for a particular project. 6962

Sec. 153.09. If in the opinion of the owner referred to in 6963
section 153.01 of the Revised Code, the award of a contract to the 6964
lowest responsive and responsible bidder is not in the best 6965
interests of the state, the owner may accept another bid so opened 6966
or reject all bids, and advertise for other bids. Such 6967
advertisement shall be for such time, in such form, and in such 6968
newspaper as the ~~department~~ Ohio facilities construction 6969
commission directs. All contracts shall provide that such owner 6970
may make any change in work or materials on the conditions and in 6971
the manner provided in sections 153.10 and 153.11 of the Revised 6972
Code. 6973

Sec. 153.11. Whenever the change referred to in section 6974
153.10 of the Revised Code is approved by the owner as defined in 6975
section 153.01 of the Revised Code, accepted in writing by the 6976
contractor, and filed, the same shall be considered as being a 6977
part of the original contract, and the bond theretofore executed 6978
shall be ~~held~~ increased or decreased accordingly to include and 6979
cover the ~~same~~ change in the contract. 6980

Sec. 153.12. (A) With respect to award of any contract for 6981
the construction, reconstruction, improvement, enlargement, 6982
alteration, repair, painting, or decoration of a public 6983

improvement made by the state, or any county, township, municipal 6984
corporation, school district, or other political subdivision, or 6985
any public board, commission, authority, instrumentality, or 6986
special purpose district of or in the state or a political 6987
subdivision or that is authorized by state law, the award, and 6988
execution of the contract, shall be made within sixty days after 6989
the date on which the bids are opened. The failure to award and 6990
execute the contract within sixty days invalidates the entire bid 6991
proceedings and all bids submitted, unless the time for awarding 6992
and executing the contract is extended by mutual consent of the 6993
owner or its representatives and the bidder whose bid the owner 6994
accepts and with respect to whom the owner subsequently awards and 6995
executes a contract. The public owners referred to in this section 6996
shall include, in the plans and specifications for the project for 6997
which bids are solicited, the estimate of cost. The bid for which 6998
the award is to be made shall be opened at the time and place 6999
named in the advertisement for bids, unless extended by the owner 7000
or its representative or unless, within seventy-two hours prior to 7001
the published time for the opening of bids, excluding Saturdays, 7002
Sundays, and legal holidays, any modification of the plans or 7003
specifications and estimates of cost for the project for which 7004
bids are solicited is issued and mailed or otherwise furnished to 7005
persons who have obtained plans or specifications for the project, 7006
for which the time for opening of bids shall be extended one week, 7007
with no further advertising of bids required. The contractor, upon 7008
request, is entitled to a notice to proceed with the work by the 7009
owner or its representative upon execution of the contract. No 7010
contract to which this section applies shall be entered into if 7011
the price of the contract, or, if the project involves multiple 7012
contracts where the total price of all contracts for the project, 7013
is in excess of ten per cent above the entire estimate thereof, 7014
nor shall the entire cost of the construction, reconstruction, 7015
repair, painting, decorating, improvement, alteration, addition, 7016

or installation, including changes and estimates of expenses for 7017
architects or engineers, exceed in the aggregate the amount 7018
authorized by law. 7019

The unit or lump sum price stated in the contract shall be 7020
used in determining the amount to be paid and shall constitute 7021
full and final compensation for all the work. 7022

Partial payment to the contractor for work performed under 7023
the lump sum price shall be based on a schedule prepared by the 7024
contractor and approved by the architect or engineer who shall 7025
apportion the lump sum price to the major components entering into 7026
or forming a part of the work under the lump sum price. 7027

Partial payments to the contractor for labor performed under 7028
either a unit or lump sum price contract shall be made at the rate 7029
of ninety-two per cent of the estimates prepared by the contractor 7030
and approved by the architect or engineer. All labor performed 7031
after the job is fifty per cent completed shall be paid for at the 7032
rate of one hundred per cent of the estimates submitted by the 7033
contractor and approved by the architect or engineer. 7034

The amounts and time of payments of any public improvements 7035
contract made by the state or any county, township, municipal 7036
corporation, school district, or other political subdivision, or 7037
any public board, commission, authority, instrumentality, or 7038
special purpose district of or in the state or a political 7039
subdivision or that is authorized by state law, except as provided 7040
in section 5525.19 of the Revised Code, shall be governed by this 7041
section and sections 153.13 and 153.14 of the Revised Code. If the 7042
time for awarding the contract is extended by mutual consent, or 7043
if the owner or its representative fails to issue a timely notice 7044
to proceed as required by this section, the owner or its 7045
representative shall issue a change order authorizing delay costs 7046
to the contractor, which does not invalidate the contract. The 7047
amount of such a change order to the owner shall be determined in 7048

accordance with the provisions of the contract for change orders 7049
or force accounts or, if no such provision is set forth in the 7050
contract, the cost to the owner shall be the contractor's actual 7051
costs including wages, labor costs other than wages, wage taxes, 7052
materials, equipment costs and rentals, insurance, and 7053
subcontracts attributable to the delay, plus a reasonable sum for 7054
overhead. In the event of a dispute between the owner and the 7055
contractor concerning such change order, procedures shall be 7056
commenced under the applicable terms of the contract, or, if the 7057
contract contains no provision for resolving the dispute, it shall 7058
be resolved pursuant to the procedures for arbitration in Chapter 7059
2711. of the Revised Code, except as provided in division (B) of 7060
this section. Nothing in this division shall be construed as a 7061
limitation upon the authority of the director of transportation 7062
granted in Chapter 5525. of the Revised Code. 7063

(B) If a dispute arises between the state and a contractor 7064
concerning the terms of a public improvement contract let by the 7065
state or concerning a breach of the contract, and after 7066
administrative remedies provided for in such contract and any 7067
alternative dispute resolution procedures provided in accordance 7068
with guidelines established by the executive director of 7069
~~administrative services~~ the Ohio facilities construction 7070
commission are exhausted, the contractor may bring an action to 7071
the court of claims in accordance with Chapter 2743. of the 7072
Revised Code. The state or the contractor may request the chief 7073
justice of the supreme court to appoint a referee or panel of 7074
referees in accordance with division (C)(3) of section 2743.03 of 7075
the Revised Code. As used in this division, "dispute" means a 7076
disagreement between the state and the contractor concerning a 7077
public improvement contract let by the state. 7078

Sec. 153.14. For the construction of those projects, 7079
improvements, and public buildings over which the ~~director of~~ 7080

~~administrative services~~ Ohio facilities construction commission 7081
has general supervision pursuant to section ~~123.01~~ 123.21 of the 7082
Revised Code, the estimates referred to in section 153.13 of the 7083
Revised Code shall be filed with the executive director by the 7084
owner referred to in section 153.01 or 153.12 of the Revised Code. 7085
Upon completion of a project referred to in section 153.13 of the 7086
Revised Code or any divisible part thereof, the maintenance and 7087
repair of such project or divisible part shall be assumed by the 7088
owner referred to in section 153.01 or 153.12 of the Revised Code. 7089

In addition to all other payments on account of work 7090
performed, there shall be allowed by the owner referred to in 7091
section 153.01 or 153.12 of the Revised Code and paid to the 7092
contractor a sum at the rate of ninety-two per cent of the invoice 7093
costs, not to exceed the bid price in a unit price contract, of 7094
material delivered on the site of the work, or a railroad station, 7095
siding, or other point in the vicinity of the work, or other 7096
approved storage site, provided such materials have been inspected 7097
and found to meet the specifications. The balance of such invoiced 7098
value shall be paid when such material is incorporated into and 7099
becomes a part of such building, construction, addition, 7100
improvement, alteration, or installation. When an estimate is 7101
allowed on account of material delivered on the site of the work 7102
or in the vicinity thereof or under the possession and control of 7103
the contractor but not yet incorporated therein, such material 7104
shall become the property of the owner under the contract, but if 7105
such material is stolen, destroyed, or damaged by casualty before 7106
being used, the contractor shall be required to replace it at ~~his~~ 7107
the contractor's own expense. 7108

When the rate of work and amounts involved are so large that 7109
it is considered advisable by the owner or contractor, estimates 7110
and payments shall be made twice each month. 7111

Payment on approved estimates filed with the owner or its 7112

representative shall be made within thirty days. Upon the failure 7113
of the owner or its representative to make such payments within 7114
thirty days, or upon an unauthorized withholding of retainage, 7115
there shall be allowed to the contractor, in addition to any other 7116
remedies allowed by law, interest on such moneys not paid within 7117
thirty days. Interest on the unauthorized withholding of retainage 7118
shall be in addition to any interest earned in the escrow account 7119
set forth in section 153.13 of the Revised Code. The rate of such 7120
interest shall be the average of the prime rate established at the 7121
commercial banks in the city of over one hundred thousand 7122
population that is nearest the construction project. Nothing in 7123
this section shall be construed as a limitation upon the authority 7124
of the director of transportation granted in Chapter 5525. of the 7125
Revised Code. 7126

Sec. 153.16. (A) The executive director of administrative 7127
services the Ohio facilities construction commission shall 7128
establish policy and procedure guidelines for contract documents 7129
in conjunction with the administration of public works contracts 7130
that the state or any institution supported in whole or in part by 7131
the state enters into for any project subject to sections 153.01 7132
to 153.11 of the Revised Code. 7133

(B) Notwithstanding any contract provision to the contrary, 7134
any claim submitted under a public works contract that the state 7135
or any institution supported in whole or in part by the state 7136
enters into for any project subject to sections 153.01 to 153.11 7137
of the Revised Code shall be resolved within one hundred twenty 7138
days. After the end of this one hundred twenty-day period, the 7139
contractor shall be deemed to have exhausted all administrative 7140
remedies for purposes of division (B) of section 153.12 of the 7141
Revised Code. 7142

Sec. 153.17. (A) When in the opinion of the owner referred to 7143

in section 153.01 of the Revised Code, the work under any contract 7144
made under any law of the state is neglected by the contractor or 7145
such work is not prosecuted with the diligence and force specified 7146
or intended in the contract, such owner may make requisition upon 7147
the contractor for such additional specific force or materials to 7148
be brought into the work under such contract or to remove improper 7149
materials from the grounds as in their judgment the contract and 7150
its faithful fulfillment requires. 7151

Not less than five days' notice in writing of such action 7152
shall be served upon the contractor or the contractor's agent in 7153
charge of the work. If the contractor fails to comply with such 7154
requisition within fifteen days, such owner with the written 7155
consent of the ~~department of administrative services~~ Ohio 7156
facilities construction commission, may employ upon the work the 7157
additional force, or supply the special materials or such part of 7158
either as is considered proper, and may remove improper materials 7159
from the grounds. 7160

(B) When the original contractor has defaulted on a contract 7161
and the surety has declined to take over the project, the owner 7162
may contract with one or more takeover contractors to complete 7163
work that was not finished because of the default of the original 7164
contractor. The owner may enter into a contract with a takeover 7165
contractor without competitive bidding or controlling board 7166
approval. Upon execution of a takeover contract, the owner shall 7167
notify the director of budget and management. 7168

When the owner has taken over a project after a default has 7169
occurred, any moneys that the owner receives from the surety as a 7170
settlement for completion of the project shall be deposited in the 7171
original fund from which the capital appropriation for the project 7172
was made. The executive director, without controlling board 7173
approval, may authorize specified additional uses for the moneys 7174
related to completion of the project and may increase the 7175

appropriation authority in the appropriation line item used to 7176
fund the project by an amount equal to the moneys received from 7177
the surety. 7178

Sec. 153.502. (A) Each construction manager at risk and 7179
design-build firm shall establish criteria by which it will 7180
prequalify prospective bidders on subcontracts awarded for work to 7181
be performed under the construction management or design-build 7182
contract. The criteria established by a construction manager at 7183
risk or design-build firm shall be subject to the approval of the 7184
public authority involved in the project and shall be consistent 7185
with the rules adopted by the ~~department of administrative~~ 7186
~~services~~ Ohio facilities construction commission pursuant to 7187
section 153.503 of the Revised Code. 7188

(B) For each subcontract to be awarded, the construction 7189
manager at risk or design-build firm shall identify at least three 7190
prospective bidders that are prequalified to bid on that 7191
subcontract, except that the construction manager at risk or 7192
design-build firm shall identify fewer than three if the 7193
construction manager at risk or design-build firm establishes to 7194
the satisfaction of the public authority that fewer than three 7195
prequalified bidders are available. The public authority shall 7196
verify that each prospective bidder meets the prequalification 7197
criteria and may eliminate any bidder it determines is not 7198
qualified. 7199

(C) Once the prospective bidders are prequalified and found 7200
acceptable by the public authority, the construction manager at 7201
risk or design-build firm shall solicit proposals from each of 7202
those bidders. The solicitation and selection of a subcontractor 7203
shall be conducted under an open book pricing method. As used in 7204
this division, "open book pricing method" has the same meaning as 7205
in section 9.33 of the Revised Code, in the case of a construction 7206

manager at risk, and the same meaning as in section 153.65 of the Revised Code, in the case of a design-build firm.

(D) A construction manager at risk or design-build firm shall not be required to award a subcontract to a low bidder.

Sec. 153.503. ~~The department of administrative services Ohio facilities construction commission~~, pursuant to Chapter 119. of the Revised Code ~~and not later than June 30, 2012~~, shall adopt rules to do all of the following:

(A) Prescribe the procedures and criteria for determining the best value selection of a construction manager at risk or design-build firm;

(B) ~~In consultation with the state architect's office, set~~ Set forth standards to be followed by construction managers at risk and design-build firms when establishing prequalification criteria pursuant to section 153.502 of the Revised Code;

(C) Prescribe the form for the contract documents to be used by a construction manager at risk, design-build firm, or general contractor when entering into a subcontract;

(D) Prescribe the form for the contract documents to be used by a public authority when entering into a contract with a construction manager at risk or design-build firm.

Sec. 153.53. (A) As used in this section, "rate of inflation" has the same meaning as in section 107.032 of the Revised Code.

(B) Five years after ~~the effective date of this section~~ September 29, 2011, and every five years thereafter, the executive director of administrative services the Ohio facilities construction commission shall evaluate the monetary threshold specified in section 153.01 of the Revised Code and adopt rules

adjusting that amount based on the average rate of inflation 7236
during each of the previous five years immediately preceding such 7237
adjustment. 7238

Sec. 167.04. (A) The regional council of governments shall 7239
adopt by-laws, by a majority vote of its members, designating the 7240
officers of the council and the method of their selection, 7241
creating a governing board that may act for the council as 7242
provided in the by-laws, and providing for the conduct of its 7243
business. 7244

(B) The by-laws of the regional council of governments shall 7245
provide for the appointment of a fiscal officer, who may hold any 7246
other office or employment with the council, and who shall 7247
receive, deposit, invest, and disburse the funds of the council in 7248
the manner authorized by the by-laws or action by the council. 7249

(C) The by-laws of a regional council of governments the 7250
members of which include, under sections 167.01 and 167.02 of the 7251
Revised Code, at least eight counties may include a provision 7252
authorizing member attendance and voting at council meetings 7253
either in person or by proxy. 7254

(D)(1) Within ten business days after forming a regional 7255
council of governments, the officers of the council shall notify 7256
the auditor of state of the regional council's formation and shall 7257
provide on a form prescribed by the auditor of state the 7258
information regarding the regional council that the auditor of 7259
state considers necessary. 7260

(2) As used in this division, "business day" means a day of 7261
the week, excluding Saturday, Sunday, or a legal holiday as 7262
defined in section 1.14 of the Revised Code. 7263

Sec. 173.14. As used in sections 173.14 to 173.27 of the 7264
Revised Code: 7265

(A)(1) Except as otherwise provided in division (A)(2) of 7266
this section, "long-term care facility" includes any residential 7267
facility that provides personal care services for more than 7268
twenty-four hours for two or more unrelated adults, including all 7269
of the following: 7270

(a) A "nursing home," "residential care facility," or "home 7271
for the aging" as defined in section 3721.01 of the Revised Code; 7272

(b) A facility authorized to provide extended care services 7273
under Title XVIII of the "Social Security Act," 49 Stat. 620 7274
(1935), 42 U.S.C. 301, as amended, including a long-term acute 7275
care hospital that provides medical and rehabilitative care to 7276
patients who require an average length of stay greater than 7277
twenty-five days and is classified by the centers for medicare and 7278
medicaid services as a long-term care hospital pursuant to 42 7279
C.F.R. 412.23(e); 7280

(c) A county home or district home operated pursuant to 7281
Chapter 5155. of the Revised Code; 7282

(d) ~~An "adult care~~ A residential facility ~~as defined in~~ 7283
licensed under section ~~5119.70~~ 5119.22 of the Revised Code that 7284
provides accommodations, supervision, and personal care services 7285
for three to sixteen unrelated adults; 7286

(e) A facility approved by the veterans administration under 7287
section 104(a) of the "Veterans Health Care Amendments of 1983," 7288
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for 7289
the placement and care of veterans; 7290

(f) An adult foster home certified under section 5119.692 of 7291
the Revised Code. 7292

(2) "Long-term care facility" does not include a ~~"residential~~ 7293
~~facility" as defined in section 5119.22 of the Revised Code or a~~ 7294
~~"residential facility" as defined in~~ licensed under section 7295
5123.19 of the Revised Code. 7296

(B) "Resident" means a resident of a long-term care facility	7297
and, where appropriate, includes a prospective, previous, or	7298
deceased resident of a long-term care facility.	7299
(C) "Community-based long-term care services" means health	7300
and social services provided to persons in their own homes or in	7301
community care settings, and includes any of the following:	7302
(1) Case management;	7303
(2) Home health care;	7304
(3) Homemaker services;	7305
(4) Chore services;	7306
(5) Respite care;	7307
(6) Adult day care;	7308
(7) Home-delivered meals;	7309
(8) Personal care;	7310
(9) Physical, occupational, and speech therapy;	7311
(10) Transportation;	7312
(11) Any other health and social services provided to persons	7313
that allow them to retain their independence in their own homes or	7314
in community care settings.	7315
(D) "Recipient" means a recipient of community-based	7316
long-term care services and, where appropriate, includes a	7317
prospective, previous, or deceased recipient of community-based	7318
long-term care services.	7319
(E) "Sponsor" means an adult relative, friend, or guardian	7320
who has an interest in or responsibility for the welfare of a	7321
resident or a recipient.	7322
(F) "Personal care services" has the same meaning as in	7323
section 3721.01 of the Revised Code.	7324

(G) "Regional long-term care ombudsperson program" means an 7325
entity, either public or private and nonprofit, designated as a 7326
regional long-term care ombudsperson program by the state 7327
long-term care ombudsperson. 7328

(H) "Representative of the office of the state long-term care 7329
ombudsperson program" means the state long-term care ombudsperson 7330
or a member of the ombudsperson's staff, or a person certified as 7331
a representative of the office under section 173.21 of the Revised 7332
Code. 7333

(I) "Area agency on aging" means an area agency on aging 7334
established under the "Older Americans Act of 1965," 79 Stat. 219, 7335
42 U.S.C.A. 3001, as amended. 7336

Sec. 173.21. (A) The office of the state long-term care 7337
ombudsperson program, through the state long-term care 7338
ombudsperson and the regional long-term care ombudsperson 7339
programs, shall require each representative of the office to 7340
complete a training and certification program in accordance with 7341
this section and to meet the continuing education requirements 7342
established under this section. 7343

(B) The department of aging shall adopt rules under Chapter 7344
119. of the Revised Code specifying the content of training 7345
programs for representatives of the office of the state long-term 7346
care ombudsperson program. Training for representatives other than 7347
those who are volunteers providing services through regional 7348
long-term care ombudsperson programs shall include instruction 7349
regarding federal, state, and local laws, rules, and policies on 7350
long-term care facilities and community-based long-term care 7351
services; investigative techniques; and other topics considered 7352
relevant by the department and shall consist of the following: 7353

(1) A minimum of forty clock hours of basic instruction, 7354
which shall be completed before the trainee is permitted to handle 7355

complaints without the supervision of a representative of the 7356
office certified under this section; 7357

(2) An additional sixty clock hours of instruction, which 7358
shall be completed within the first fifteen months of employment; 7359

(3) An internship of twenty clock hours, which shall be 7360
completed within the first twenty-four months of employment, 7361
including instruction in, and observation of, basic nursing care 7362
and long-term care provider operations and procedures. The 7363
internship shall be performed at a site that has been approved as 7364
an internship site by the state long-term care ombudsperson. 7365

(4) One of the following, which shall be completed within the 7366
first twenty-four months of employment: 7367

(a) Observation of a survey conducted by the director of 7368
health to certify a facility to receive funds under sections 7369
5111.20 to 5111.32 of the Revised Code; 7370

(b) Observation of an inspection conducted by the director of 7371
mental health to license ~~an adult care~~ a residential facility 7372
under section ~~5119.73~~ 5119.22 of the Revised Code that provides 7373
accommodations, supervision, and personal care services for three 7374
to sixteen unrelated adults. 7375

(5) Any other training considered appropriate by the 7376
department. 7377

(C) Persons who for a period of at least six months prior to 7378
June 11, 1990, served as ombudsmen through the long-term care 7379
ombudsperson program established by the department of aging under 7380
division (M) of section 173.01 of the Revised Code shall not be 7381
required to complete a training program. These persons and persons 7382
who complete a training program shall take an examination 7383
administered by the department of aging. On attainment of a 7384
passing score, the person shall be certified by the department as 7385
a representative of the office. The department shall issue the 7386

person an identification card, which the representative shall show 7387
at the request of any person with whom the representative deals 7388
while performing the representative's duties and which shall be 7389
surrendered at the time the representative separates from the 7390
office. 7391

(D) The state ombudsperson and each regional program shall 7392
conduct training programs for volunteers on their respective 7393
staffs in accordance with the rules of the department of aging 7394
adopted under division (B) of this section. Training programs may 7395
be conducted that train volunteers to complete some, but not all, 7396
of the duties of a representative of the office. Each regional 7397
office shall bear the cost of training its representatives who are 7398
volunteers. On completion of a training program, the 7399
representative shall take an examination administered by the 7400
department of aging. On attainment of a passing score, a volunteer 7401
shall be certified by the department as a representative 7402
authorized to perform services specified in the certification. The 7403
department shall issue an identification card, which the 7404
representative shall show at the request of any person with whom 7405
the representative deals while performing the representative's 7406
duties and which shall be surrendered at the time the 7407
representative separates from the office. Except as a supervised 7408
part of a training program, no volunteer shall perform any duty 7409
unless he is certified as a representative having received 7410
appropriate training for that duty. 7411

(E) The state ombudsperson shall provide technical assistance 7412
to regional programs conducting training programs for volunteers 7413
and shall monitor the training programs. 7414

(F) Prior to scheduling an observation of a certification 7415
survey or licensing inspection for purposes of division (B)(4) of 7416
this section, the state ombudsperson shall obtain permission to 7417
have the survey or inspection observed from both the director of 7418

health and the long-term care facility at which the survey or 7419
inspection is to take place. 7420

(G) The department of aging shall establish continuing 7421
education requirements for representatives of the office. 7422

Sec. 173.23. (A) Representatives of the office of the state 7423
long-term care ombudsperson program are immune from civil or 7424
criminal liability for any action taken in the good faith 7425
performance of their official duties under sections 173.14 to 7426
173.26 of the Revised Code. ~~The department of aging shall ensure 7427
that adequate legal counsel is available to the office of the 7428
state long-term care ombudsperson program for advice and 7429
consultation and that legal representation is provided to any 7430
representative of the office against whom any legal action is 7431
brought in connection with the representative's official duties 7432
under sections 173.14 to 173.26 of the Revised Code.~~ 7433

(B) A person acting in good faith is immune from civil or 7434
criminal liability incident to any of the following: providing 7435
information to the office, participating in registration of a 7436
complaint with the office, participating in investigation of a 7437
complaint by the office, or participating in an administrative or 7438
judicial proceeding resulting from a complaint. 7439

(C) No person shall knowingly register a false complaint with 7440
the office, or knowingly swear or affirm the truth of a false 7441
complaint previously registered, when the statement is made with 7442
purpose to incriminate another. 7443

(D) The attorney general shall provide legal counsel to the 7444
office of the state long-term care ombudsperson program and to the 7445
regional long-term care ombudsperson programs. The attorney 7446
general shall represent any representative of the office and any 7447
representative of a regional program against whom any legal action 7448
is brought in connection with the representative's official duties 7449

under sections 173.14 to 173.26 of the Revised Code. 7450

Sec. 173.26. (A) Each of the following facilities shall 7451
annually pay to the department of aging six dollars for each bed 7452
maintained by the facility for use by a resident during any part 7453
of the previous year: 7454

(1) Nursing homes, residential care facilities, and homes for 7455
the aging as defined in section 3721.01 of the Revised Code; 7456

(2) Facilities authorized to provide extended care services 7457
under Title XVIII of the "Social Security Act," 49 Stat. 620 7458
(1935), 42 U.S.C. 301, as amended, including a long-term acute 7459
care hospital that provides medical and rehabilitative care to 7460
patients who require an average length of stay greater than 7461
twenty-five days and is classified by the centers for medicare and 7462
medicaid services as a long-term care hospital pursuant to 42 7463
C.F.R. 412.23(e); 7464

(3) County homes and district homes operated pursuant to 7465
Chapter 5155. of the Revised Code; 7466

(4) ~~Adult care~~ Residential facilities ~~as defined in~~ licensed 7467
under section 5119.70 5119.22 of the Revised Code that provide 7468
accommodations, supervision, and personal care services for three 7469
to sixteen unrelated adults; 7470

(5) Facilities approved by the Veterans Administration under 7471
Section 104(a) of the "Veterans Health Care Amendments of 1983," 7472
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for 7473
the placement and care of veterans. 7474

The department shall, by rule adopted in accordance with 7475
Chapter 119. of the Revised Code, establish deadlines for payments 7476
required by this section. A facility that fails, within ninety 7477
days after the established deadline, to pay a payment required by 7478
this section shall be assessed at two times the original invoiced 7479

payment. 7480

(B) All money collected under this section shall be deposited 7481
in the state treasury to the credit of the office of the state 7482
long-term care ombudsperson program fund, which is hereby created. 7483
Money credited to the fund shall be used solely to pay the costs 7484
of operating the regional long-term care ombudsperson programs. 7485

(C) The state long-term care ombudsperson and the regional 7486
programs may solicit and receive contributions to support the 7487
operation of the office or a regional program, except that no 7488
contribution shall be solicited or accepted that would interfere 7489
with the independence or objectivity of the office or program. 7490

Sec. 173.27. (A) As used in this section: 7491

(1) "Applicant" means a person who is under final 7492
consideration for employment with the office of the state 7493
long-term care ombudsperson program in a full-time, part-time, or 7494
temporary position that involves providing ombudsperson services 7495
to residents and recipients. "Applicant" includes, ~~but is not~~ 7496
~~limited to,~~ a person who is under final consideration for 7497
employment as the state long-term care ombudsperson or the head of 7498
a regional long-term care ombudsperson program. "Applicant" does 7499
not include a person ~~who provides~~ seeking to provide ombudsperson 7500
services to residents and recipients as a volunteer without 7501
receiving or expecting to receive any form of remuneration other 7502
than reimbursement for actual expenses. 7503

(2) "Criminal records check" has the same meaning as in 7504
section 109.572 of the Revised Code. 7505

(3) "Disqualifying offense" means any of the following: 7506

(a) A violation of section 959.13, 959.131, 2903.01, 2903.02, 7507
2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 7508
2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 2905.01, 7509

<u>2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04,</u>	7510
<u>2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22,</u>	7511
<u>2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322,</u>	7512
<u>2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 2909.22, 2909.23,</u>	7513
<u>2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02,</u>	7514
<u>2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32,</u>	7515
<u>2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45,</u>	7516
<u>2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02,</u>	7517
<u>2917.03, 2917.31, 2919.12, 2919.121, 2919.123, 2919.22, 2919.23,</u>	7518
<u>2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.21, 2921.24,</u>	7519
<u>2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 2923.122,</u>	7520
<u>2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 2923.42,</u>	7521
<u>2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.09,</u>	7522
<u>2925.11, 2925.13, 2925.14, 2925.22, 2925.23, 2925.24, 2925.36,</u>	7523
<u>2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code;</u>	7524
<u>(b) Felonious sexual penetration in violation of former</u>	7525
<u>section 2907.12 of the Revised Code;</u>	7526
<u>(c) A violation of section 2905.04 of the Revised Code as it</u>	7527
<u>existed prior to July 1, 1996;</u>	7528
<u>(d) A violation of section 2923.01, 2923.02, or 2923.03 of</u>	7529
<u>the Revised Code when the underlying offense that is the object of</u>	7530
<u>the conspiracy, attempt, or complicity is one of the offenses</u>	7531
<u>listed in divisions (A)(3)(a) to (c) of this section;</u>	7532
<u>(e) A violation of an existing or former municipal ordinance</u>	7533
<u>or law of this state, any other state, or the United States that</u>	7534
<u>is substantially equivalent to any of the offenses listed in</u>	7535
<u>divisions (A)(3)(a) to (d) of this section.</u>	7536
<u>(4) "Employee" means a person employed by the office of the</u>	7537
<u>state long-term care ombudsperson program in a full-time,</u>	7538
<u>part-time, or temporary position that involves providing</u>	7539
<u>ombudsperson services to residents and recipients. "Employee"</u>	7540

includes the person employed as the state long-term care 7541
ombudsperson and a person employed as the head of a regional 7542
long-term care ombudsperson program. "Employee" does not include a 7543
person who provides ombudsperson services to residents and 7544
recipients as a volunteer without receiving or expecting to 7545
receive any form of remuneration other than reimbursement for 7546
actual expenses. 7547

(5) "Responsible entity" means the following: 7548

(a) In the case of an applicant who is under final 7549
consideration for employment as the state long-term care 7550
ombudsperson or the person employed as the state long-term care 7551
ombudsperson, the director of aging; 7552

(b) In the case of any other applicant or employee, the state 7553
long-term care ombudsperson or the ombudsperson's designee. 7554

(B) The office of the state long-term care ombudsperson 7555
program may not employ an applicant or continue to employ an 7556
employee in a position that involves providing ombudsperson 7557
services to residents and recipients if any of the following 7558
apply: 7559

(1) A review of the databases listed in division (D) of this 7560
section reveals any of the following: 7561

(a) That the applicant or employee is included in one or more 7562
of the databases listed in divisions (D)(1) to (5) of this 7563
section; 7564

(b) That there is in the state nurse aide registry 7565
established under section 3721.32 of the Revised Code a statement 7566
detailing findings by the director of health that the applicant or 7567
employee neglected or abused a long-term care facility or 7568
residential care facility resident or misappropriated property of 7569
such a resident; 7570

(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules adopted under this section and the rules prohibit the office from employing an applicant or continuing to employ an employee included in such a database in a position that involves providing ombudsperson services to residents and recipients.

(2) After the applicant or employee is provided, pursuant to division (E)(2)(a) of this section, a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section, the applicant or employee fails to complete the form or provide the applicant's or employee's fingerprint impressions on the standard impression sheet.

(3) Except as provided in rules adopted under this section, the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense.

(C) The responsible entity shall inform each applicant of both of the following at the time of the applicant's initial application for employment in a position that involves providing ombudsperson services to residents and recipients:

(1) That a review of the databases listed in division (D) of this section will be conducted to determine whether the office of the state long-term care ombudsperson program is prohibited by division (B)(1) of this section from employing the applicant in the position;

(2) That, unless the database review reveals that the applicant may not be employed in the position, a criminal records check of the applicant will be conducted and the applicant is required to provide a set of the applicant's fingerprint

impressions as part of the criminal records check. 7602

(D) As a condition of any applicant's being employed by the 7603
office of the state long-term care ombudsperson program in a 7604
position that involves providing ombudsperson services to 7605
residents and recipients, the responsible entity shall conduct a 7606
database review of the applicant in accordance with rules adopted 7607
under this section. If rules adopted under this section so 7608
require, the responsible entity shall conduct a database review of 7609
an employee in accordance with the rules as a condition of the 7610
office's continuing to employ the employee in a position that 7611
involves providing ombudsperson services to residents and 7612
recipients. A database review shall determine whether the 7613
applicant or employee is included in any of the following: 7614

(1) The excluded parties list system maintained by the United 7615
States general services administration pursuant to subpart 9.4 of 7616
the federal acquisition regulation; 7617

(2) The list of excluded individuals and entities maintained 7618
by the office of inspector general in the United States department 7619
of health and human services pursuant to section 1128 of the 7620
"Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as 7621
amended, and section 1156 of the "Social Security Act," 96 Stat. 7622
388 (1982), 42 U.S.C. 1320c-5, as amended; 7623

(3) The registry of MR/DD employees established under section 7624
5123.52 of the Revised Code; 7625

(4) The internet-based sex offender and child-victim offender 7626
database established under division (A)(11) of section 2950.13 of 7627
the Revised Code; 7628

(5) The internet-based database of inmates established under 7629
section 5120.66 of the Revised Code; 7630

(6) The state nurse aide registry established under section 7631
3721.32 of the Revised Code; 7632

(7) Any other database, if any, specified in rules adopted 7633
under this section. 7634

~~(E)(1) The state long term care ombudsperson or the~~ 7635
~~ombudsperson's designee~~ As a condition of any applicant's being 7636
employed by the office of the state long-term care ombudsperson 7637
program in a position that involves providing ombudsperson 7638
services to residents and recipients, the responsible entity shall 7639
request that the superintendent of the bureau of criminal 7640
identification and investigation conduct a criminal records check 7641
~~with respect to each~~ of the applicant. If rules adopted under this 7642
section so require, the responsible entity shall request that the 7643
superintendent conduct a criminal records check of an employee at 7644
times specified in the rules as a condition of the office's 7645
continuing to employ the employee in a position that involves 7646
providing ombudsperson services to residents and recipients. 7647
However, ~~if the applicant is under final consideration for~~ 7648
~~employment as the state long term care ombudsperson, the director~~ 7649
~~of aging shall request that the superintendent conduct the~~ 7650
~~criminal records check~~ the responsible entity is not required to 7651
request the criminal records check of the applicant or employee if 7652
the office is prohibited by division (B)(1) of this section from 7653
employing the applicant or continuing to employ the employee in a 7654
position that involves providing ombudsperson services to 7655
residents and recipients. If an applicant or employee for whom a 7656
criminal records check request is required ~~under~~ by this ~~division~~ 7657
section does not present proof of having been a resident of this 7658
state for the five-year period immediately prior to the date the 7659
criminal records check is requested or provide evidence that 7660
within that five-year period the superintendent has requested 7661
information about the applicant or employee from the federal 7662
bureau of investigation in a criminal records check, the 7663
~~ombudsperson, designee, or director~~ responsible entity shall 7664
request that the superintendent obtain information from the 7665

federal bureau of investigation as part of the criminal records 7666
check ~~of the applicant~~. Even if an applicant or employee for whom 7667
a criminal records check request is required ~~under~~ by this 7668
~~division~~ section presents proof of having been a resident of this 7669
state for the five-year period, the ~~ombudsperson, designee, or~~ 7670
~~director~~ responsible entity may request that the superintendent 7671
include information from the federal bureau of investigation in 7672
the criminal records check. 7673

(2) ~~A person required by division (B)(1) of this section to~~ 7674
~~request a criminal records check~~ The responsible entity shall do 7675
~~both~~ all of the following: 7676

(a) Provide to each applicant and employee for whom a 7677
criminal records check request is required ~~under that division~~ by 7678
this section a copy of the form prescribed pursuant to division 7679
(C)(1) of section 109.572 of the Revised Code and a standard 7680
~~fingerprint~~ impression sheet prescribed pursuant to division 7681
(C)(2) of that section, ~~and obtain;~~ 7682

(b) Obtain the completed form and standard impression sheet 7683
from the applicant or employee; 7684

~~(b)(c)~~ Forward the completed form and standard impression 7685
sheet to the superintendent ~~of the bureau of criminal~~ 7686
~~identification and investigation.~~ 7687

(3) ~~An applicant provided the form and fingerprint impression~~ 7688
~~sheet under division (B)(2)(a) of this section who fails to~~ 7689
~~complete the form or provide fingerprint impressions shall not be~~ 7690
~~employed in any position for which a criminal records check is~~ 7691
~~required by this section.~~ 7692

~~(C)(1) Except as provided in rules adopted by the director of~~ 7693
~~aging in accordance with division (F) of this section and subject~~ 7694
~~to division (C)(2) of this section, the office of the state~~ 7695
~~long term care ombudsperson may not employ a person in a position~~ 7696

~~that involves providing ombudsperson services to residents and recipients if the person has been convicted of or pleaded guilty to any of the following:~~

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

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

~~(2)(a) The office of the state long-term care ombudsperson program shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check the responsible entity requests under this section. The office may charge an applicant a fee not exceeding the amount the office pays to the bureau under this section if the responsible entity notifies the applicant at the time of initial application for employment of the amount of the fee.~~

~~(F)(1) The office of the state long-term care ombudsperson program may employ conditionally an applicant for whom a criminal records check request is required under division (B) of by this section prior to obtaining the results of a the criminal records check regarding the individual, provided that the state long-term care ombudsperson, ombudsperson's designee, or director of aging shall request a if the office is not prohibited by division (B)(1)~~

of this section from employing the applicant in a position that 7729
involves providing ombudsperson services to residents and 7730
recipients and the responsible entity requests the 7731
criminal records check ~~regarding the individual~~ in accordance with division 7732
~~(B)(1)(E)~~ of this section not later than five business days after 7733
the ~~individual~~ applicant begins conditional employment. 7734

~~(b)(2)~~ The office of the state long-term care ombudsperson 7735
program shall terminate the employment of an ~~individual~~ applicant 7736
employed conditionally under division ~~(C)(2)(a)(F)(1)~~ of this 7737
section if the results of the criminal records check ~~request under~~ 7738
~~division (B) of this section~~, other than the results of any 7739
request for information from the federal bureau of investigation, 7740
are not obtained within the period ending sixty days after the 7741
date the request for the criminal records check is made. 7742
Regardless of when the results of the criminal records check are 7743
obtained, if the results indicate that the ~~individual~~ applicant 7744
has been convicted of ~~or~~ pleaded guilty to ~~any of the offenses~~ 7745
~~listed or described in division (C)(1) of this section~~, or been 7746
found eligible for intervention in lieu of conviction for a 7747
disqualifying offense, the office shall terminate the ~~individual's~~ 7748
applicant's employment unless circumstances specified in rules 7749
adopted under this section that permit the office to employ the 7750
applicant exist and the office chooses to employ the ~~individual~~ 7751
~~pursuant to division (F) of this section~~ applicant. Termination of 7752
employment under this division shall be considered just cause for 7753
discharge for purposes of division (D)(2) of section 4141.29 of 7754
the Revised Code if the ~~individual~~ applicant makes any attempt to 7755
deceive the office about the ~~individual's~~ applicant's criminal 7756
record. 7757

~~(D)(1)~~ The office of the state long term care ombudsperson 7758
program shall pay to the bureau of criminal identification and 7759
investigation the fee prescribed pursuant to ~~division (C)(3) of~~ 7760

~~section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section.~~ 7761
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~~(2) The office of the state long term care ombudsperson program may charge an applicant a fee not exceeding the amount the office pays under division (D)(1) of this section. The office may collect a fee only if the office notifies the applicant at the time of initial application for employment of the amount of the fee.~~ 7764
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~~(E)(G)~~ (G) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following: 7770
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(1) The ~~individual~~ applicant or employee who is the subject of the criminal records check or the ~~individual's~~ applicant's or employee's representative; 7775
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(2) The ~~state long term care ombudsperson, ombudsperson's designee, director of aging,~~ responsible entity or the ~~ombudsperson, designee, or director's~~ responsible entity's representative; 7778
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(3) If the state long-term care ombudsperson designates the head or other employee of a regional long-term care ombudsperson program to request a criminal records check under this section, a representative of the office of the state long-term care ombudsperson program who is responsible for monitoring the regional program's compliance with this section; 7782
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(4) A court, hearing officer, or other necessary individual involved in a case dealing with ~~a~~ any of the following: 7788
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(a) A denial of employment of the applicant or ~~dealing with~~ employment ~~employee;~~ 7790
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(b) Employment or unemployment benefits of the applicant or 7792
employee; 7793

(c) A civil or criminal action regarding the medicaid program 7794
or a program the department of aging administers. 7795

~~(F) The director of aging shall adopt rules in accordance 7796
with Chapter 119. of the Revised Code to implement this section. 7797
The rules shall specify circumstances under which the office of 7798
the state long term care ombudsperson program may employ a person 7799
who has been convicted of or pleaded guilty to an offense listed 7800
or described in division (C)(1) of this section but meets personal 7801
character standards set by the director. 7802~~

~~(G) The office of the state long term care ombudsperson 7803
program shall inform each person, at the time of initial 7804
application for a position that involves providing ombudsperson 7805
services to residents and recipients, that the person is required 7806
to provide a set of fingerprint impressions and that a criminal 7807
records check is required to be conducted if the person comes 7808
under final consideration for employment. 7809~~

(H) In a tort or other civil action for damages that is 7810
brought as the result of an injury, death, or loss to person or 7811
property caused by an ~~individual~~ applicant or employee who the 7812
office of the state long-term care ombudsperson program employs in 7813
a position that involves providing ombudsperson services to 7814
residents and recipients, all of the following shall apply: 7815

(1) If the office employed the ~~individual~~ applicant or 7816
employee in good faith and reasonable reliance on the report of a 7817
criminal records check requested under this section, the office 7818
shall not be found negligent solely because of its reliance on the 7819
report, even if the information in the report is determined later 7820
to have been incomplete or inaccurate. 7821

(2) If the office employed the ~~individual~~ applicant in good 7822

faith on a conditional basis pursuant to division ~~(C)(2)(F)~~ of 7823
this section, the office shall not be found negligent solely 7824
because it employed the ~~individual~~ applicant prior to receiving 7825
the report of a criminal records check requested under this 7826
section. 7827

(3) If the office in good faith employed the ~~individual~~ 7828
applicant or employee according to the personal character 7829
standards established in rules adopted under ~~division (F)~~ of this 7830
section, the office shall not be found negligent solely because 7831
the ~~individual prior to being employed had~~ applicant or employee 7832
has been convicted of or, pleaded guilty to an offense listed or 7833
described in division (C)(1) of this section, or been found 7834
eligible for intervention in lieu of conviction for a 7835
disqualifying offense. 7836

(I) The director of aging shall adopt rules in accordance 7837
with Chapter 119. of the Revised Code to implement this section. 7838

(1) The rules may do the following: 7839

(a) Require employees to undergo database reviews and 7840
criminal records checks under this section; 7841

(b) If the rules require employees to undergo database 7842
reviews and criminal records checks under this section, exempt one 7843
or more classes of employees from the requirements; 7844

(c) For the purpose of division (D)(7) of this section, 7845
specify other databases that are to be checked as part of a 7846
database review conducted under this section. 7847

(2) The rules shall specify all of the following: 7848

(a) The procedures for conducting database reviews under this 7849
section; 7850

(b) If the rules require employees to undergo database 7851
reviews and criminal records checks under this section, the times 7852

at which the database reviews and criminal records checks are to 7853
be conducted; 7854

(c) If the rules specify other databases to be checked as 7855
part of the database reviews, the circumstances under which the 7856
office of the state long-term care ombudsperson program is 7857
prohibited from employing an applicant or continuing to employ an 7858
employee who is found by a database review to be included in one 7859
or more of those databases; 7860

(d) Circumstances under which the office of the state 7861
long-term care ombudsperson program may employ an applicant or 7862
employee who is found by a criminal records check required by this 7863
section to have been convicted of, pleaded guilty to, or been 7864
found eligible for intervention in lieu of conviction for a 7865
disqualifying offense but meets personal character standards. 7866

Sec. 173.391. (A) The department of aging or its designee 7867
shall do all of the following in accordance with Chapter 119. of 7868
the Revised Code: 7869

(1) Certify a person or government entity to provide 7870
community-based long-term care services under a program the 7871
department administers if the person or government entity 7872
satisfies the requirements for certification established by rules 7873
adopted under division (B) of this section and pays the fee, if 7874
any, established by rules adopted under division (G) of this 7875
section; 7876

(2) When required to do so by rules adopted under division 7877
(B) of this section, take one or more of the following 7878
disciplinary actions against a person or government entity 7879
certified under division (A)(1) of this section: 7880

(a) Issue a written warning; 7881

(b) Require the submission of a plan of correction or 7882

evidence of compliance with requirements identified by the	7883
department;	7884
(c) Suspend referrals;	7885
(d) Remove clients;	7886
(e) Impose a fiscal sanction such as a civil monetary penalty	7887
or an order that unearned funds be repaid;	7888
(f) Suspend the certification;	7889
(g) Revoke the certification;	7890
(h) Impose another sanction.	7891
(3) Except as provided in division (E) of this section, hold	7892
hearings when there is a dispute between the department or its	7893
designee and a person or government entity concerning actions the	7894
department or its designee takes regarding a decision not to	7895
certify the person or government entity under division (A)(1) of	7896
this section or a disciplinary action under division <u>divisions</u>	7897
(A)(2)(e) to (h) of this section.	7898
(B) The director of aging shall adopt rules in accordance	7899
with Chapter 119. of the Revised Code establishing certification	7900
requirements and standards for determining which type of	7901
disciplinary action to take under division (A)(2) of this section	7902
in individual situations. The rules shall establish procedures for	7903
all of the following:	7904
(1) Ensuring that community-based long-term care agencies	7905
comply with section 173.394 of the Revised Code;	7906
(2) Evaluating the services provided by the agencies to	7907
ensure that the services are provided in a quality manner	7908
advantageous to the individual receiving the services;	7909
(3) Determining when to take disciplinary action under	7910
division (A)(2) of this section and which disciplinary action to	7911
take;	7912

(4) Determining what constitutes another sanction for 7913
purposes of division (A)(2)(h) of this section. 7914

(C) The procedures established in rules adopted under 7915
division (B)(2) of this section shall require that all of the 7916
following be considered as part of an evaluation described in 7917
division (B)(2) of this section: 7918

(1) The community-based long-term care agency's experience 7919
and financial responsibility; 7920

(2) The agency's ability to comply with standards for the 7921
community-based long-term care services that the agency provides 7922
under a program the department administers; 7923

(3) The agency's ability to meet the needs of the individuals 7924
served; 7925

(4) Any other factor the director considers relevant. 7926

(D) The rules adopted under division (B)(3) of this section 7927
shall specify that the reasons disciplinary action may be taken 7928
under division (A)(2) of this section include good cause, 7929
including misfeasance, malfeasance, nonfeasance, confirmed abuse 7930
or neglect, financial irresponsibility, or other conduct the 7931
director determines is injurious, or poses a threat, to the health 7932
or safety of individuals being served. 7933

(E) Subject to division (F) of this section, the department 7934
is not required to hold hearings under division (A)(3) of this 7935
section if any of the following conditions apply: 7936

(1) Rules adopted by the director of aging pursuant to this 7937
chapter require the community-based long-term care agency to be a 7938
party to a provider agreement; hold a license, certificate, or 7939
permit; or maintain a certification, any of which is required or 7940
issued by a state or federal government entity other than the 7941
department of aging, and either of the following is the case: 7942

(a) The provider agreement has not been entered into or the 7943
license, certificate, permit, or certification has not been 7944
obtained or maintained. 7945

(b) The provider agreement, license, certificate, permit, or 7946
certification has been denied, revoked, not renewed, or suspended 7947
or has been otherwise restricted. 7948

(2) The agency's certification under this section has been 7949
denied, suspended, or revoked for any of the following reasons: 7950

(a) A government entity of this state, other than the 7951
department of aging, has terminated or refused to renew any of the 7952
following held by, or has denied any of the following sought by, a 7953
community-based long-term care agency: a provider agreement, 7954
license, certificate, permit, or certification. Division (E)(2)(a) 7955
of this section applies regardless of whether the agency has 7956
entered into a provider agreement in, or holds a license, 7957
certificate, permit, or certification issued by, another state. 7958

(b) The agency or a principal owner or manager of the agency 7959
who provides direct care has entered a guilty plea for, or has 7960
been convicted of, an offense materially related to the medicaid 7961
program. 7962

(c) The agency or a principal owner or manager of the agency 7963
who provides direct care has entered a guilty plea for, ~~or~~ been 7964
convicted of, or been found eligible for intervention in lieu of 7965
conviction for an offense listed in ~~division (C)(1)(a)~~ divisions 7966
(A)(3)(a) to (d) of section 173.394 of the Revised Code, but only 7967
if none of the personal character standards established by the 7968
~~department~~ director in rules adopted under ~~division (F) of that~~ 7969
~~section 173.394 of the Revised Code~~ apply. 7970

(d) The United States department of health and human services 7971
has taken adverse action against the agency and that action 7972
impacts the agency's participation in the medicaid program. 7973

(e) The agency has failed to enter into or renew a provider agreement with the PASSPORT administrative agency, as that term is defined in section 173.42 of the Revised Code, that administers programs on behalf of the department of aging in the region of the state in which the agency is certified to provide services.

(f) The agency has not billed or otherwise submitted a claim to the department for payment under the medicaid program in at least two years.

(g) The agency denied or failed to provide the department or its designee access to the agency's facilities during the agency's normal business hours for purposes of conducting an audit or structural compliance review.

(h) The agency has ceased doing business.

(i) The agency has voluntarily relinquished its certification for any reason.

(3) The agency's provider agreement with the department of job and family services has been suspended under division (C) of section 5111.031 of the Revised Code.

(4) The agency's provider agreement with the department of job and family services is denied or revoked because the agency or its owner, officer, authorized agent, associate, manager, or employee has been convicted of an offense that caused the provider agreement to be suspended under section 5111.031 of the Revised Code.

(F) If the department does not hold hearings when any condition described in division (E) of this section applies, the department may send a notice to the agency describing a decision not to certify the agency under division (A)(1) of this section or the disciplinary action the department proposes to take under division (A)(2)(e) to (h) of this section. The notice shall be sent to the agency's address that is on record with the department

and may be sent by regular mail. 8005

(G) The director of aging may adopt rules in accordance with 8006
Chapter 119. of the Revised Code establishing a fee to be charged 8007
by the department of aging or its designee for certification 8008
issued under this section. 8009

All fees collected by the department or its designee under 8010
this section shall be deposited in the state treasury to the 8011
credit of the provider certification fund, which is hereby 8012
created. Money credited to the fund shall be used to pay for 8013
community-based long-term care services, administrative costs 8014
associated with community-based long-term care agency 8015
certification under this section, and administrative costs related 8016
to the publication of the Ohio long-term care consumer guide. 8017

Sec. 173.394. (A) As used in this section: 8018

(1) "Applicant" means a person who is under final 8019
consideration for employment with a community-based long-term care 8020
agency in a full-time, part-time, or temporary position that 8021
involves providing direct care to an individual or is referred to 8022
a community-based long-term care agency by an employment service 8023
for such a position. "Applicant" does not include a person who 8024
provides direct care to an individual as a volunteer without 8025
receiving or expecting to receive any form of remuneration other 8026
than reimbursement for actual expenses. 8027

(2) "Criminal records check" has the same meaning as in 8028
section 109.572 of the Revised Code. 8029

(3) "Disqualifying offense" means any of the following: 8030

(a) A violation of section 959.13, 959.131, 2903.01, 2903.02, 8031
2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 8032
2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 2905.01, 8033
2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 8034

<u>2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22,</u>	8035
<u>2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322,</u>	8036
<u>2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 2909.22, 2909.23,</u>	8037
<u>2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02,</u>	8038
<u>2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32,</u>	8039
<u>2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45,</u>	8040
<u>2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02,</u>	8041
<u>2917.03, 2917.31, 2919.12, 2919.121, 2919.123, 2919.22, 2919.23,</u>	8042
<u>2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.21, 2921.24,</u>	8043
<u>2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 2923.122,</u>	8044
<u>2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 2923.42,</u>	8045
<u>2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.09,</u>	8046
<u>2925.11, 2925.13, 2925.14, 2925.22, 2925.23, 2925.24, 2925.36,</u>	8047
<u>2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code;</u>	8048
<u>(b) Felonious sexual penetration in violation of former</u>	8049
<u>section 2907.12 of the Revised Code;</u>	8050
<u>(c) A violation of section 2905.04 of the Revised Code as it</u>	8051
<u>existed prior to July 1, 1996;</u>	8052
<u>(d) A violation of section 2923.01, 2923.02, or 2923.03 of</u>	8053
<u>the Revised Code when the underlying offense that is the object of</u>	8054
<u>the conspiracy, attempt, or complicity is one of the offenses</u>	8055
<u>listed in divisions (A)(3)(a) to (c) of this section;</u>	8056
<u>(e) A violation of an existing or former municipal ordinance</u>	8057
<u>or law of this state, any other state, or the United States that</u>	8058
<u>is substantially equivalent to any of the offenses listed in</u>	8059
<u>divisions (A)(3)(a) to (d) of this section.</u>	8060
<u>(4) "Employee" means a person employed by a community-based</u>	8061
<u>long-term care agency in a full-time, part-time, or temporary</u>	8062
<u>position that involves providing direct care to an individual and</u>	8063
<u>a person who works in such a position due to being referred to a</u>	8064
<u>community-based long-term care agency by an employment service.</u>	8065

"Employee" does not include a person who provides direct care to an individual as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(B) No community-based long-term care agency shall employ an applicant or continue to employ an employee in a position that involves providing direct care to an individual if any of the following apply:

(1) A review of the databases listed in division (D) of this section reveals any of the following:

(a) That the applicant or employee is included in one or more of the databases listed in divisions (D)(1) to (5) of this section;

(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the applicant or employee neglected or abused a long-term care facility or residential care facility resident or misappropriated property of such a resident;

(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules adopted under this section and the rules prohibit the agency from employing an applicant or continuing to employ an employee included in such a database in a position that involves providing direct care to an individual.

(2) After the applicant or employee is provided, pursuant to division (E)(2)(a) of this section, a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section, the applicant or employee fails to complete the form or provide the applicant's or employee's

fingerprint impressions on the standard impression sheet. 8097

(3) Except as provided in rules adopted under this section, 8098
the applicant or employee is found by a criminal records check 8099
required by this section to have been convicted of, pleaded guilty 8100
to, or been found eligible for intervention in lieu of conviction 8101
for a disqualifying offense. 8102

(C) Except as provided by division (F) of this section, the 8103
chief administrator of a community-based long-term care agency 8104
shall inform each applicant of both of the following at the time 8105
of the applicant's initial application for employment or referral 8106
to the agency by an employment service for a position that 8107
involves providing direct care to an individual: 8108

(1) That a review of the databases listed in division (D) of 8109
this section will be conducted to determine whether the agency is 8110
prohibited by division (B)(1) of this section from employing the 8111
applicant in the position; 8112

(2) That, unless the database review reveals that the 8113
applicant may not be employed in the position, a criminal records 8114
check of the applicant will be conducted and the applicant is 8115
required to provide a set of the applicant's fingerprint 8116
impressions as part of the criminal records check. 8117

(D) As a condition of employing any applicant in a position 8118
that involves providing direct care to an individual, the chief 8119
administrator of a community-based long-term care agency shall 8120
conduct a database review of the applicant in accordance with 8121
rules adopted under this section. If rules adopted under this 8122
section so require, the chief administrator of a community-based 8123
long-term care agency shall conduct a database review of an 8124
employee in accordance with the rules as a condition of continuing 8125
to employ the employee in a position that involves providing 8126
direct care to an individual. However, a chief administrator is 8127

not required to conduct a database review of an applicant or 8128
employee if division (F) of this section applies. A database 8129
review shall determine whether the applicant or employee is 8130
included in any of the following: 8131

(1) The excluded parties list system maintained by the United 8132
States general services administration pursuant to subpart 9.4 of 8133
the federal acquisition regulation; 8134

(2) The list of excluded individuals and entities maintained 8135
by the office of inspector general in the United States department 8136
of health and human services pursuant to section 1128 of the 8137
"Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as 8138
amended, and section 1156 of the "Social Security Act," 96 Stat. 8139
388 (1982), 42 U.S.C. 1320c-5, as amended; 8140

(3) The registry of MR/DD employees established under section 8141
5123.52 of the Revised Code; 8142

(4) The internet-based sex offender and child-victim offender 8143
database established under division (A)(11) of section 2950.13 of 8144
the Revised Code; 8145

(5) The internet-based database of inmates established under 8146
section 5120.66 of the Revised Code; 8147

(6) The state nurse aide registry established under section 8148
3721.32 of the Revised Code; 8149

(7) Any other database, if any, specified in rules adopted 8150
under this section. 8151

(E)(1) ~~Except as provided in division (I) of this section~~ As 8152
a condition of employing any applicant in a position that involves 8153
providing direct care to an individual, the chief administrator of 8154
a community-based long-term care agency shall request that the 8155
superintendent of the bureau of criminal identification and 8156
investigation conduct a criminal records check ~~with respect to~~ 8157

~~each of the~~ applicant. If rules adopted under this section so 8158
require, the chief administrator of a community-based long-term 8159
care agency shall request that the superintendent conduct a 8160
criminal records check of an employee at times specified in the 8161
rules as a condition of continuing to employ the employee in a 8162
position that involves providing direct care to an individual. 8163
However, the chief administrator is not required to request the 8164
criminal records check of the applicant or employee if division 8165
(F) of this section applies or the agency is prohibited by 8166
division (B)(1) of this section from employing the applicant or 8167
continuing to employ the employee in a position that involves 8168
providing direct care to an individual. If an applicant or 8169
employee for whom a criminal records check request is required 8170
under by this ~~division~~ section does not present proof of having 8171
been a resident of this state for the five-year period immediately 8172
prior to the date the criminal records check is requested or 8173
provide evidence that within that five-year period the 8174
superintendent has requested information about the applicant or 8175
employee from the federal bureau of investigation in a criminal 8176
records check, the chief administrator shall request that the 8177
superintendent obtain information from the federal bureau of 8178
investigation as part of the criminal records check ~~of the~~ 8179
~~applicant~~. Even if an applicant or employee for whom a criminal 8180
records check request is required ~~under by this division section~~ 8181
presents proof of having been a resident of this state for the 8182
five-year period, the chief administrator may request that the 8183
superintendent include information from the federal bureau of 8184
investigation in the criminal records check. 8185

(2) ~~A person required by division (B)(1) of this section to~~ 8186
~~request a criminal records check~~ The chief administrator shall do 8187
~~both~~ all of the following: 8188

(a) Provide to each applicant and employee for whom a 8189

criminal records check request is required ~~under that division by~~ 8190
~~this section~~ a copy of the form prescribed pursuant to division 8191
(C)(1) of section 109.572 of the Revised Code and a standard 8192
~~fingerprint~~ impression sheet prescribed pursuant to division 8193
(C)(2) of that section, ~~and obtain;~~ 8194

(b) Obtain the completed form and standard impression sheet 8195
from the applicant or employee; 8196

~~(b)(c)~~ Forward the completed form and standard impression 8197
sheet to the superintendent ~~of the bureau of criminal~~ 8198
~~identification and investigation.~~ 8199

(3) ~~An applicant provided the form and fingerprint impression~~ 8200
~~sheet under division (B)(2)(a) of this section who fails to~~ 8201
~~complete the form or provide fingerprint impressions shall not be~~ 8202
~~employed in any position for which a criminal records check is~~ 8203
~~required by this section.~~ 8204

~~(C)(1) Except as provided in rules adopted by the department~~ 8205
~~of aging in accordance with division (F) of this section and~~ 8206
~~subject to division (C)(2) of this section, no community based~~ 8207
~~long term care agency shall employ a person in a position that~~ 8208
~~involves providing direct care to an individual if the person has~~ 8209
~~been convicted of or pleaded guilty to any of the following:~~ 8210

~~(a) A violation of section 2903.01, 2903.02, 2903.03,~~ 8211
~~2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34,~~ 8212
~~2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05,~~ 8213
~~2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31,~~ 8214
~~2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11,~~ 8215
~~2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21,~~ 8216
~~2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36,~~ 8217
~~2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13,~~ 8218
~~2925.22, 2925.23, or 3716.11 of the Revised Code.~~ 8219

~~(b) A violation of an existing or former law of this state,~~ 8220

~~any other state, or the United States that is substantially 8221
equivalent to any of the offenses listed in division (C)(1)(a) of 8222
this section. 8223~~

(2)(a) A community-based long-term care agency shall pay to 8224
the bureau of criminal identification and investigation the fee 8225
prescribed pursuant to division (C)(3) of section 109.572 of the 8226
Revised Code for each criminal records check the agency requests 8227
under this section. An agency may charge an applicant a fee not 8228
exceeding the amount the agency pays to the bureau under this 8229
section if both of the following apply: 8230

(a) The agency notifies the applicant at the time of initial 8231
application for employment of the amount of the fee and that, 8232
unless the fee is paid, the applicant will not be considered for 8233
employment. 8234

(b) The medicaid program established under Chapter 5111. of 8235
the Revised Code does not reimburse the agency for the fee it pays 8236
to the bureau under this section. 8237

(F) Divisions (C) to (E) of this section do not apply with 8238
regard to an applicant or employee if the applicant or employee is 8239
referred to a community-based long-term agency by an employment 8240
service that supplies full-time, part-time, or temporary staff for 8241
positions that involve providing direct care to an individual and 8242
both of the following apply: 8243

(1) The chief administrator of the agency receives from the 8244
employment service confirmation that a review of the databases 8245
listed in division (D) of this section was conducted of the 8246
applicant or employee. 8247

(2) The chief administrator of the agency receives from the 8248
employment service, applicant, or employee a report of the results 8249
of a criminal records check of the applicant or employee that has 8250
been conducted by the superintendent within the one-year period 8251

immediately preceding the following: 8252

(a) In the case of an applicant, the date of the applicant's 8253
referral by the employment service to the agency; 8254

(b) In the case of an employee, the date by which the agency 8255
would otherwise have to request a criminal records check of the 8256
employee under division (E) of this section. 8257

(G)(1) A community-based long-term care agency may employ 8258
conditionally an applicant for whom a criminal records check 8259
request is required ~~under division (B) of~~ by this section prior to 8260
obtaining the results of a ~~the~~ criminal records check ~~regarding~~ 8261
~~the individual, provided that~~ if the agency is not prohibited by 8262
division (B)(1) of this section from employing the applicant in a 8263
position that involves providing direct care to an individual and 8264
either of the following applies: 8265

(a) The chief administrator of the agency ~~shall request a~~ 8266
requests ~~the~~ criminal records check ~~regarding the individual~~ in 8267
accordance with division ~~(B)(1)~~(E) of this section not later than 8268
five business days after the ~~individual~~ applicant begins 8269
conditional employment. 8270

(b) The applicant is referred to the agency by an employment 8271
service, the employment service or the applicant provides the 8272
chief administrator of the agency a letter that is on the 8273
letterhead of the employment service, the letter is dated and 8274
signed by a supervisor or another designated official of the 8275
employment service, and the letter states all of the following: 8276

(i) That the employment service has requested the 8277
superintendent to conduct a criminal records check regarding the 8278
applicant; 8279

(ii) That the requested criminal records check is to include 8280
a determination of whether the applicant has been convicted of, 8281
pleaded guilty to, or been found eligible for intervention in lieu 8282

of conviction for a disqualifying offense; 8283

(iii) That the employment service has not received the 8284
results of the criminal records check as of the date set forth on 8285
the letter; 8286

(iv) That the employment service promptly will send a copy of 8287
the results of the criminal records check to the chief 8288
administrator of the agency when the employment service receives 8289
the results. In the circumstances described in division (I)(2) of 8290
this section, a community based long term care agency may employ 8291
conditionally an applicant who has been referred to the agency by 8292
an employment service that supplies full time, part time, or 8293
temporary staff for positions involving the direct care of 8294
individuals and for whom, pursuant to that division, a criminal 8295
records check is not required under division (B) of this section. 8296

(b)(2) If a community-based long-term care agency employs an 8297
applicant conditionally pursuant to division (G)(1)(b) of this 8298
section, the employment service, on its receipt of the results of 8299
the criminal records check, promptly shall send a copy of the 8300
results to the chief administrator of the agency. 8301

(3) A community-based long-term care agency that employs an 8302
individual applicant conditionally under authority of pursuant to 8303
division (C)(2)(a)(G)(1)(a) or (b) of this section shall terminate 8304
the individual's applicant's employment if the results of the 8305
criminal records check request under division (B) of this section 8306
or described in division (I)(2) of this section, other than the 8307
results of any request for information from the federal bureau of 8308
investigation, are not obtained within the period ending sixty 8309
days after the date the request for the criminal records check is 8310
made. Regardless of when the results of the criminal records check 8311
are obtained, if the results indicate that the individual 8312
applicant has been convicted of ~~or~~, pleaded guilty to any of the 8313
offenses listed or described in division (C)(1) of this section, 8314

or been found eligible for intervention in lieu of conviction for 8315
a disqualifying offense, the agency shall terminate the 8316
~~individual's~~ applicant's employment unless circumstances specified 8317
in rules adopted under this section that permit the agency to 8318
employ the applicant exist and the agency chooses to employ the 8319
~~individual pursuant to division (F) of this section~~ applicant. 8320
Termination of employment under this division shall be considered 8321
just cause for discharge for purposes of division (D)(2) of 8322
section 4141.29 of the Revised Code if the ~~individual~~ applicant 8323
makes any attempt to deceive the agency about the ~~individual's~~ 8324
applicant's criminal record. 8325

~~(D)(1) Each community based long term care agency shall pay~~ 8326
~~to the bureau of criminal identification and investigation the fee~~ 8327
~~prescribed pursuant to division (C)(3) of section 109.572 of the~~ 8328
~~Revised Code for each criminal records check conducted pursuant to~~ 8329
~~a request made under division (B) of this section.~~ 8330

~~(2) A community based long term care agency may charge an~~ 8331
~~applicant a fee not exceeding the amount the agency pays under~~ 8332
~~division (D)(1) of this section. An agency may collect a fee only~~ 8333
~~if both of the following apply:~~ 8334

~~(a) The agency notifies the person at the time of initial~~ 8335
~~application for employment of the amount of the fee and that,~~ 8336
~~unless the fee is paid, the person will not be considered for~~ 8337
~~employment;~~ 8338

~~(b) The medicaid program established under Chapter 5111. of~~ 8339
~~the Revised Code does not reimburse the agency the fee it pays~~ 8340
~~under division (D)(1) of this section.~~ 8341

~~(E)(H)~~ The report of any criminal records check conducted 8342
pursuant to a request made under this section is not a public 8343
record for the purposes of section 149.43 of the Revised Code and 8344
shall not be made available to any person other than the 8345

following: 8346

(1) The ~~individual~~ applicant or employee who is the subject 8347
of the criminal records check or the ~~individual's~~ applicant's or 8348
employee's representative; 8349

(2) The chief administrator of the community-based long-term 8350
care agency requesting the criminal records check or the 8351
administrator's representative; 8352

(3) The administrator of any other facility, agency, or 8353
program that provides direct care to individuals that is owned or 8354
operated by the same entity that owns or operates the 8355
community-based long-term care agency that requested the criminal 8356
records check; 8357

(4) The employment service that requested the criminal 8358
records check; 8359

(5) The director of aging or a person authorized by the 8360
director to monitor a community-based long-term care agency's 8361
compliance with this section; 8362

~~(5)~~ (6) A court, hearing officer, or other necessary 8363
individual involved in a case dealing with a any of the following: 8364

(a) A denial of employment of the applicant or ~~dealing with~~ 8365
~~employment~~ employee; 8366

(b) Employment or unemployment benefits of the applicant or 8367
employee; 8368

~~(6)~~ ~~Any person to whom the report is provided pursuant to,~~ 8369
~~and in accordance with, division (I)(1) or (2) of this section~~ (c) 8370
A civil or criminal action regarding the medicaid program or a 8371
program the department of aging administers. 8372

~~(F)~~ ~~The department of aging shall adopt rules in accordance~~ 8373
~~with Chapter 119. of the Revised Code to implement this section.~~ 8374
~~The rules shall specify circumstances under which a~~ 8375

~~community based long term care agency may employ a person who has
been convicted of or pleaded guilty to an offense listed or
described in division (C)(1) of this section but meets personal
character standards set by the department.~~

~~(G) The chief administrator of a community based long term
care agency shall inform each person, at the time of initial
application for a position that involves providing direct care to
an individual, that the person is required to provide a set of
fingerprint impressions and that a criminal records check is
required to be conducted if the person comes under final
consideration for employment.~~

~~(H)(I) In a tort or other civil action for damages that is
brought as the result of an injury, death, or loss to person or
property caused by an individual applicant or employee who a
community-based long-term care agency employs in a position that
involves providing direct care to individuals, all of the
following shall apply:~~

~~(1) If the agency employed the individual applicant or
employee in good faith and reasonable reliance on the report of a
criminal records check requested under this section, the agency
shall not be found negligent solely because of its reliance on the
report, even if the information in the report is determined later
to have been incomplete or inaccurate.~~

~~(2) If the agency employed the individual applicant in good
faith on a conditional basis pursuant to division ~~(C)(2)~~(G) of
this section, the agency shall not be found negligent solely
because it employed the individual applicant prior to receiving
the report of a criminal records check requested under this
section.~~

~~(3) If the agency in good faith employed the individual
applicant or employee according to the personal character~~

standards established in rules adopted under ~~division (F) of this~~ 8407
section, the agency shall not be found negligent solely because 8408
the ~~individual prior to being employed had~~ applicant or employee 8409
has been convicted of or, pleaded guilty to an offense listed or 8410
described in division (C)(1) of this section, or been found 8411
eligible for intervention in lieu of conviction for a 8412
disqualifying offense. 8413

~~(I)(1) The chief administrator of a community based long term~~ 8414
~~care agency is not required to request that the superintendent of~~ 8415
~~the bureau of criminal identification and investigation conduct a~~ 8416
~~criminal records check of an applicant if the applicant has been~~ 8417
~~referred to the agency by an employment service that supplies~~ 8418
~~full time, part time, or temporary staff for positions involving~~ 8419
~~the direct care of individuals and both of the following apply:~~ 8420

~~(a) The chief administrator receives from the employment~~ 8421
~~service or the applicant a report of the results of a criminal~~ 8422
~~records check regarding the applicant that has been conducted by~~ 8423
~~the superintendent within the one year period immediately~~ 8424
~~preceding the applicant's referral;~~ 8425

~~(b) The report of the criminal records check demonstrates~~ 8426
~~that the person has not been convicted of or pleaded guilty to an~~ 8427
~~offense listed or described in division (C)(1) of this section, or~~ 8428
~~the report demonstrates that the person has been convicted of or~~ 8429
~~pleaded guilty to one or more of those offenses, but the~~ 8430
~~community based long term care agency chooses to employ the~~ 8431
~~individual pursuant to division (F) of this section.~~ 8432

~~(2) The chief administrator of a community based long term~~ 8433
~~care agency is not required to request that the superintendent of~~ 8434
~~the bureau of criminal identification and investigation conduct a~~ 8435
~~criminal records check of an applicant and may employ the~~ 8436
~~applicant conditionally as described in this division, if the~~ 8437
~~applicant has been referred to the agency by an employment service~~ 8438

~~that supplies full time, part time, or temporary staff for 8439
positions involving the direct care of individuals and if the 8440
chief administrator receives from the employment service or the 8441
applicant a letter from the employment service that is on the 8442
letterhead of the employment service, dated, and signed by a 8443
supervisor or another designated official of the employment 8444
service and that states that the employment service has requested 8445
the superintendent to conduct a criminal records check regarding 8446
the applicant, that the requested criminal records check will 8447
include a determination of whether the applicant has been 8448
convicted of or pleaded guilty to any offense listed or described 8449
in division (C)(1) of this section, that, as of the date set forth 8450
on the letter, the employment service had not received the results 8451
of the criminal records check, and that, when the employment 8452
service receives the results of the criminal records check, it 8453
promptly will send a copy of the results to the community based 8454
long term care agency. If a community based long term care agency 8455
employs an applicant conditionally in accordance with this 8456
division, the employment service, upon its receipt of the results 8457
of the criminal records check, promptly shall send a copy of the 8458
results to the community based long term care agency, and division 8459
(C)(2)(b) of this section applies regarding the conditional 8460
employment. 8461~~

(J) The director of aging shall adopt rules in accordance 8462
with Chapter 119. of the Revised Code to implement this section. 8463

(1) The rules may do the following: 8464

(a) Require employees to undergo database reviews and 8465
criminal records checks under this section; 8466

(b) If the rules require employees to undergo database 8467
reviews and criminal records checks under this section, exempt one 8468
or more classes of employees from the requirements; 8469

(c) For the purpose of division (D)(7) of this section, 8470
specify other databases that are to be checked as part of a 8471
database review conducted under this section. 8472

(2) The rules shall specify all of the following: 8473

(a) The procedures for conducting database reviews under this 8474
section; 8475

(b) If the rules require employees to undergo database 8476
reviews and criminal records checks under this section, the times 8477
at which the database reviews and criminal records checks are to 8478
be conducted; 8479

(c) If the rules specify other databases to be checked as 8480
part of the database reviews, the circumstances under which a 8481
community-based long-term care agency is prohibited from employing 8482
an applicant or continuing to employ an employee who is found by a 8483
database review to be included in one or more of those databases; 8484

(d) Circumstances under which a community-based long-term 8485
care agency may employ an applicant or employee who is found by a 8486
criminal records check required by this section to have been 8487
convicted of, pleaded guilty to, or been found eligible for 8488
intervention in lieu of conviction for a disqualifying offense but 8489
meets personal character standards. 8490

Sec. 173.40. (A) As used in sections 173.40 to 173.402 of the 8491
Revised Code: 8492

"Medicaid waiver component" has the same meaning as in 8493
section 5111.85 of the Revised Code. 8494

"PASSPORT program" means the program created under this 8495
section. 8496

"PASSPORT waiver" means the federal medicaid waiver granted 8497
by the United States secretary of health and human services that 8498
authorizes the medicaid-funded component of the PASSPORT program. 8499

"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.

(B) There is hereby created the preadmission screening system providing options and resources today program, or PASSPORT. The PASSPORT program shall provide home and community-based services as an alternative to nursing facility placement for individuals who are aged and disabled and meet the program's applicable eligibility requirements. Subject to division (C) of this section, the program shall have a medicaid-funded component and a state-funded component.

(C)(1) Unless the medicaid-funded component of the PASSPORT program is terminated under division (C)(2) of this section, all of the following apply:

(a) The department of aging shall administer the medicaid-funded component through a contract entered into with the department of job and family services under section 5111.91 of the Revised Code.

(b) The medicaid-funded component shall be operated as a separate medicaid waiver component.

(c) For an individual to be eligible for the medicaid-funded component, the individual must be a medicaid recipient and meet the additional eligibility requirements applicable to the individual established in rules adopted under division (C)(1)(d) of this section.

(d) The director of job and family services shall adopt rules under section 5111.85 of the Revised Code and the director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the medicaid-funded component.

(2) If the unified long-term services and support medicaid waiver component is created, the departments of aging and job and

family services shall work together to determine whether the 8531
medicaid-funded component of the PASSPORT program should continue 8532
to operate as a separate medicaid waiver component or be 8533
terminated. If the departments determine that the medicaid-funded 8534
component of the PASSPORT program should be terminated, the 8535
medicaid-funded component shall cease to exist on a date the 8536
departments shall specify. 8537

(D)(1) The department of aging shall administer the 8538
state-funded component of the PASSPORT program. The state-funded 8539
component shall not be administered as part of the medicaid 8540
program. 8541

(2) For an individual to be eligible for the state-funded 8542
component, the individual must meet one of the following 8543
requirements and meet the additional eligibility requirements 8544
applicable to the individual established in rules adopted under 8545
division (D)(4) of this section: 8546

(a) The individual must have been enrolled in the 8547
state-funded component on September 1, 1991, (as the state-funded 8548
component was authorized by uncodified law in effect at that time) 8549
and have had one or more applications for enrollment in the 8550
medicaid-funded component (or, if the medicaid-funded component is 8551
terminated under division (C)(2) of this section, the unified 8552
long-term services and support medicaid waiver component) denied. 8553

(b) The individual must have had the individual's enrollment 8554
in the medicaid-funded component (or, if the medicaid-funded 8555
component is terminated under division (C)(2) of this section, the 8556
unified long-term services and support medicaid waiver component) 8557
terminated and the individual must still need the home and 8558
community-based services provided under the PASSPORT program to 8559
protect the individual's health and safety. 8560

(c) The individual must have an application for the 8561

medicaid-funded component (or, if the medicaid-funded component is 8562
terminated under division (C)(2) of this section, the unified 8563
long-term services and support medicaid waiver component) pending 8564
and the department or the department's designee must have 8565
determined that the individual meets the nonfinancial eligibility 8566
requirements of the medicaid-funded component (or, if the 8567
medicaid-funded component is terminated under division (C)(2) of 8568
this section, the unified long-term services and support medicaid 8569
waiver component) and not have reason to doubt that the individual 8570
meets the financial eligibility requirements of the 8571
medicaid-funded component (or, if the medicaid-funded component is 8572
terminated under division (C)(2) of this section, the unified 8573
long-term services and support medicaid waiver component). 8574

(3) An individual who is eligible for the state-funded 8575
component because the individual meets the requirement of division 8576
(D)(2)(c) of this section may participate in the component on that 8577
basis for not more than ~~three months~~ ninety days. 8578

(4) The director of aging shall adopt rules in accordance 8579
with section 111.15 of the Revised Code to implement the 8580
state-funded component. The additional eligibility requirements 8581
established in the rules may vary for the different groups of 8582
individuals specified in divisions (D)(2)(a), (b), and (c) of this 8583
section. 8584

Sec. 173.42. (A) As used in sections 173.42 to 173.434 of the 8585
Revised Code: 8586

(1) "Area agency on aging" means a public or private 8587
nonprofit entity designated under section 173.011 of the Revised 8588
Code to administer programs on behalf of the department of aging. 8589

(2) "Department of aging-administered medicaid waiver 8590
component" means each of the following: 8591

(a) The medicaid-funded component of the PASSPORT program created under section 173.40 of the Revised Code;	8592 8593
(b) The choices program created under section 173.403 of the Revised Code;	8594 8595
(c) The medicaid-funded component of the assisted living program created under section 5111.89 of the Revised Code;	8596 8597
(d) Any other medicaid waiver component, as defined in section 5111.85 of the Revised Code, that the department of aging administers pursuant to an interagency agreement with the department of job and family services under section 5111.91 of the Revised Code.	8598 8599 8600 8601 8602
(3) "Home and community-based services covered by medicaid components the department of aging administers" means all of the following:	8603 8604 8605
(a) Medicaid waiver services available to a participant in a department of aging-administered medicaid waiver component;	8606 8607
(b) The following medicaid state plan services available to a participant in a department of aging-administered medicaid waiver component as specified in rules adopted under section 5111.02 of the Revised Code:	8608 8609 8610 8611
(i) Home health services;	8612
(ii) Private duty nursing services;	8613
(iii) Durable medical equipment;	8614
(iv) Services of a clinical nurse specialist;	8615
(v) Services of a certified nurse practitioner.	8616
(c) Services available to a participant of the PACE program.	8617
(4) "Long-term care consultation" or "consultation" means the consultation service made available by the department of aging or a program administrator through the long-term care consultation	8618 8619 8620

program established pursuant to this section. 8621

(5) "Medicaid" means the medical assistance program 8622
established under Chapter 5111. of the Revised Code. 8623

(6) "Nursing facility" has the same meaning as in section 8624
5111.20 of the Revised Code. 8625

(7) "PACE program" means the component of the medicaid 8626
program the department of aging administers pursuant to section 8627
173.50 of the Revised Code. 8628

(8) "PASSPORT administrative agency" means an entity under 8629
contract with the department of aging to provide administrative 8630
services regarding the PASSPORT program. 8631

(9) "Program administrator" means an area agency on aging or 8632
other entity under contract with the department of aging to 8633
administer the long-term care consultation program in a geographic 8634
region specified in the contract. 8635

(10) "Representative" means a person acting on behalf of an 8636
individual specified in division (G) of this section. A 8637
representative may be a family member, attorney, hospital social 8638
worker, or any other person chosen to act on behalf of the 8639
individual. 8640

(B) The department of aging shall develop a long-term care 8641
consultation program whereby individuals or their representatives 8642
are provided with long-term care consultations and receive through 8643
these professional consultations information about options 8644
available to meet long-term care needs and information about 8645
factors to consider in making long-term care decisions. The 8646
long-term care consultations provided under the program may be 8647
provided at any appropriate time, as permitted or required under 8648
this section and the rules adopted under it, including either 8649
prior to or after the individual who is the subject of a 8650
consultation has been admitted to a nursing facility or granted 8651

assistance in receiving home and community-based services covered 8652
by medicaid components the department of aging administers. 8653

(C) The long-term care consultation program shall be 8654
administered by the department of aging, except that the 8655
department may have the program administered on a regional basis 8656
by one or more program administrators. The department and each 8657
program administrator shall administer the program in such a 8658
manner that all of the following are included: 8659

(1) Coordination and collaboration with respect to all 8660
available funding sources for long-term care services; 8661

(2) Assessments of individuals regarding their long-term care 8662
service needs; 8663

(3) Assessments of individuals regarding their on-going 8664
eligibility for long-term care services; 8665

(4) Procedures for assisting individuals in obtaining access 8666
to, and coordination of, health and supportive services, including 8667
department of aging-administered medicaid waiver components; 8668

(5) Priorities for using available resources efficiently and 8669
effectively. 8670

(D) The program's long-term care consultations shall be 8671
provided by individuals certified by the department under section 8672
173.422 of the Revised Code. 8673

(E) The information provided through a long-term care 8674
consultation shall be appropriate to the individual's needs and 8675
situation and shall address all of the following: 8676

(1) The availability of any long-term care options open to 8677
the individual; 8678

(2) Sources and methods of both public and private payment 8679
for long-term care services; 8680

(3) Factors to consider when choosing among the available 8681

programs, services, and benefits; 8682

(4) Opportunities and methods for maximizing independence and 8683
self-reliance, including support services provided by the 8684
individual's family, friends, and community. 8685

(F) An individual's long-term care consultation may include 8686
an assessment of the individual's functional capabilities. The 8687
consultation may incorporate portions of the determinations 8688
required under sections 5111.202, 5119.061, and 5123.021 of the 8689
Revised Code and may be provided concurrently with the assessment 8690
required under section 5111.204 of the Revised Code. 8691

(G)(1) Unless an exemption specified in division (I) of this 8692
section is applicable, each of the following shall be provided 8693
with a long-term care consultation: 8694

(a) An individual who applies or indicates an intention to 8695
apply for admission to a nursing facility, regardless of the 8696
source of payment to be used for the individual's care in a 8697
nursing facility; 8698

(b) An individual who requests a long-term care consultation; 8699

(c) An individual identified by the department or a program 8700
administrator as being likely to benefit from a long-term care 8701
consultation. 8702

(2) In addition to the individuals specified in division 8703
(G)(1) of this section, a long-term care consultation may be 8704
provided to a nursing facility resident regardless of the source 8705
of payment being used for the resident's care in the nursing 8706
facility. 8707

(H)(1) Except as provided in division (H)(2) or (3) of this 8708
section, a long-term care consultation provided pursuant to 8709
division (G) of this section shall be provided as follows: 8710

(a) If the individual for whom the consultation is being 8711

provided has applied for medicaid and the consultation is being 8712
provided concurrently with the assessment required under section 8713
5111.204 of the Revised Code, the consultation shall be completed 8714
in accordance with the applicable time frames specified in that 8715
section for providing a level of care determination based on the 8716
assessment. 8717

(b) In all other cases, the consultation shall be provided 8718
not later than five calendar days after the department or program 8719
administrator receives notice of the reason for which the 8720
consultation is to be provided pursuant to division (G) of this 8721
section. 8722

(2) An individual or the individual's representative may 8723
request that a long-term care consultation be provided on a date 8724
that is later than the date required under division (H)(1)(a) or 8725
(b) of this section. 8726

(3) If a long-term care consultation cannot be completed 8727
within the number of days required by division (H)(1) or (2) of 8728
this section, the department or program administrator may do any 8729
of the following: 8730

(a) In the case of an individual specified in division (G)(1) 8731
of this section, exempt the individual from the consultation 8732
pursuant to rules that may be adopted under division (L) of this 8733
section; 8734

(b) In the case of an applicant for admission to a nursing 8735
facility, provide the consultation after the individual is 8736
admitted to the nursing facility; 8737

(c) In the case of a resident of a nursing facility, provide 8738
the consultation as soon as practicable. 8739

(I) An individual is not required to be provided a long-term 8740
care consultation under division (G)(1) of this section if any of 8741
the following apply: 8742

(1) The department or program administrator has attempted to provide the consultation, but the individual or the individual's representative refuses to cooperate;

(2) The individual is to receive care in a nursing facility under a contract for continuing care as defined in section 173.13 of the Revised Code;

(3) The individual has a contractual right to admission to a nursing facility operated as part of a system of continuing care in conjunction with one or more facilities that provide a less intensive level of services, including a residential care facility licensed under Chapter 3721. of the Revised Code, an adult care a residential facility licensed under sections 5119.70 to 5119.88 section 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults, or an independent living arrangement;

(4) The individual is to receive continual care in a home for the aged exempt from taxation under section 5701.13 of the Revised Code;

(5) The individual is seeking admission to a facility that is not a nursing facility with a provider agreement under section 5111.22, 5111.671, or 5111.672 of the Revised Code;

(6) The individual is exempted from the long-term care consultation requirement by the department or the program administrator pursuant to rules that may be adopted under division (L) of this section.

(J) As part of the long-term care consultation program, the department or program administrator shall assist an individual or individual's representative in accessing all sources of care and services that are appropriate for the individual and for which the individual is eligible, including all available home and community-based services covered by medicaid components the

department of aging administers. The assistance shall include 8774
providing for the conduct of assessments or other evaluations and 8775
the development of individualized plans of care or services under 8776
section 173.424 of the Revised Code. 8777

(K) No nursing facility for which an operator has a provider 8778
agreement under section 5111.22, 5111.671, or 5111.672 of the 8779
Revised Code shall admit any individual as a resident, unless the 8780
nursing facility has received evidence that a long-term care 8781
consultation has been completed for the individual or division (I) 8782
of this section is applicable to the individual. 8783

(L) The director of aging may adopt any rules the director 8784
considers necessary for the implementation and administration of 8785
this section. The rules shall be adopted in accordance with 8786
Chapter 119. of the Revised Code and may specify any or all of the 8787
following: 8788

(1) Procedures for providing long-term care consultations 8789
pursuant to this section; 8790

(2) Information to be provided through long-term care 8791
consultations regarding long-term care services that are 8792
available; 8793

(3) Criteria and procedures to be used to identify and 8794
recommend appropriate service options for an individual receiving 8795
a long-term care consultation; 8796

(4) Criteria for exempting individuals from the long-term 8797
care consultation requirement; 8798

(5) Circumstances under which it may be appropriate to 8799
provide an individual's long-term care consultation after the 8800
individual's admission to a nursing facility rather than before 8801
admission; 8802

(6) Criteria for identifying nursing facility residents who 8803

would benefit from the provision of a long-term care consultation; 8804

(7) A description of the types of information from a nursing 8805
facility that is needed under the long-term care consultation 8806
program to assist a resident with relocation from the facility; 8807

(8) Standards to prevent conflicts of interest relative to 8808
the referrals made by a person who performs a long-term care 8809
consultation, including standards that prohibit the person from 8810
being employed by a provider of long-term care services; 8811

(9) Procedures for providing notice and an opportunity for a 8812
hearing under division (N) of this section. 8813

(M) To assist the department and each program administrator 8814
with identifying individuals who are likely to benefit from a 8815
long-term care consultation, the department and program 8816
administrator may ask to be given access to nursing facility 8817
resident assessment data collected through the use of the resident 8818
assessment instrument specified in rules adopted under section 8819
5111.02 of the Revised Code for purposes of the medicaid program. 8820
Except when prohibited by state or federal law, the department of 8821
health, department of job and family services, or nursing facility 8822
holding the data shall grant access to the data on receipt of the 8823
request from the department of aging or program administrator. 8824

(N)(1) The director of aging, after providing notice and an 8825
opportunity for a hearing, may fine a nursing facility an amount 8826
determined by rules the director shall adopt in accordance with 8827
Chapter 119. of the Revised Code for any of the following reasons: 8828

(a) The nursing facility admits an individual, without 8829
evidence that a long-term care consultation has been provided, as 8830
required by this section; 8831

(b) The nursing facility denies a person attempting to 8832
provide a long-term care consultation access to the facility or a 8833
resident of the facility; 8834

(c) The nursing facility denies the department of aging or program administrator access to the facility or a resident of the facility, as the department or administrator considers necessary to administer the program.

(2) In accordance with section 5111.62 of the Revised Code, all fines collected under division (N)(1) of this section shall be deposited into the state treasury to the credit of the residents protection fund.

Sec. 173.45. As used in this section and in sections 173.46 to 173.49 of the Revised Code:

(A) "~~Adult care Residential~~ facility" ~~has the same meaning as in~~ means a residential facility licensed under section 5119.70 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults.

(B) "Community-based long-term care services" has the same meaning as in section 173.14 of the Revised Code.

(C) "Long-term care facility" means a nursing home or residential care facility.

(D) "Nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code.

(E) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

Sec. 173.46. (A) The department of aging shall develop and publish a guide to long-term care facilities for use by individuals considering long-term care facility admission and their families, friends, and advisors. The guide, which shall be titled the Ohio long-term care consumer guide, may be published in printed form or in electronic form for distribution over the

internet. The guide may be developed as a continuation or 8864
modification of the guide published by the department prior to 8865
September 29, 2005, under rules adopted under section 173.02 of 8866
the Revised Code. 8867

(B) The Ohio long-term care consumer guide shall include 8868
information on each long-term care facility in this state. For 8869
each facility, the guide shall include the following information, 8870
as applicable to the facility: 8871

(1) Information regarding the facility's compliance with 8872
state statutes and rules and federal statutes and regulations; 8873

(2) Information generated by the centers for medicare and 8874
medicaid services of the United States department of health and 8875
human services from the quality measures developed as part of its 8876
nursing home quality initiative; 8877

(3) Results of the customer satisfaction surveys conducted 8878
under section 173.47 of the Revised Code; 8879

(4) Any other information the department specifies in rules 8880
adopted under section 173.49 of the Revised Code. 8881

(C) The Ohio long-term care consumer guide may include 8882
information on ~~adult care~~ residential facilities and providers of 8883
community-based long-term care services. The department may adopt 8884
rules under section 173.49 of the Revised Code to specify the 8885
information to be included in the guide pursuant to this division. 8886

Sec. 191.01. As used in this chapter: 8887

(A) "Business associate," "covered entity," "health plan," 8888
"individually identifiable health information," and "protected 8889
health information" have the same meanings as in 45 C.F.R. 8890
160.103. 8891

(B) "Executive director of the office of health 8892

transformation" or "executive director" means the executive 8893
director of the office of health transformation or the chief 8894
administrative officer of a successor governmental entity 8895
responsible for health system oversight in this state. 8896

(C) "Government program providing public benefits" means any 8897
program administered by a state agency that has been identified, 8898
pursuant to section 191.02 of the Revised Code, by the executive 8899
director of the office of health transformation in consultation 8900
with the individuals specified in that section. 8901

(D) "Office of health transformation" means the office of 8902
health transformation created by executive order 2011-02K. 8903

(E) "Operating protocol" means a protocol adopted by the 8904
executive director of the office of health transformation or the 8905
executive director's designee under division (D) of section 191.06 8906
of the Revised Code. 8907

(F) "Participating agency" means a state agency that 8908
participates in a health transformation initiative as specified in 8909
the one or more operating protocols adopted for the initiative 8910
under division (D) of section 191.06 of the Revised Code. 8911

(G) "Personally identifiable information" means information 8912
that meets both of the following criteria: 8913

(1) It identifies an individual or there is a reasonable 8914
basis to believe that it may be used to identify an individual; 8915

(2) It relates to an individual's eligibility for, 8916
application for, or receipt of public benefits from a government 8917
program providing public benefits. 8918

(H) "State agency" means each of the following: 8919

(1) The department of aging; 8920

(2) The department of alcohol and drug addiction services; 8921

(3) The department of development; 8922

<u>(4) The department of developmental disabilities;</u>	8923
<u>(5) The department of education;</u>	8924
<u>(6) The department of health;</u>	8925
<u>(7) The department of insurance;</u>	8926
<u>(8) The department of job and family services;</u>	8927
<u>(9) The department of mental health;</u>	8928
<u>(10) The department of rehabilitation and correction;</u>	8929
<u>(11) The department of taxation;</u>	8930
<u>(12) The department of veterans services;</u>	8931
<u>(13) The department of youth services.</u>	8932
<u>(I) "Unsecured" has the same meaning as in 16 C.F.R. 318.2.</u>	8933
<u>Sec. 191.02. The executive director of the office of health</u>	8934
<u>transformation, in consultation with all of the following</u>	8935
<u>individuals, shall identify each government program administered</u>	8936
<u>by a state agency that is to be considered a government program</u>	8937
<u>providing public benefits for purposes of section 191.04 of the</u>	8938
<u>Revised Code:</u>	8939
<u>(A) The director of aging;</u>	8940
<u>(B) The director of alcohol and drug addiction services;</u>	8941
<u>(C) The director of development;</u>	8942
<u>(D) The director of developmental disabilities;</u>	8943
<u>(E) The director of health;</u>	8944
<u>(F) The director job and family services;</u>	8945
<u>(G) The director of mental health;</u>	8946
<u>(H) The director of rehabilitation and correction;</u>	8947
<u>(I) The director of veterans services;</u>	8948

<u>(J) The director of youth services;</u>	8949
<u>(K) The administrator of the rehabilitation services</u>	8950
<u>commission;</u>	8951
<u>(L) The administrator of workers' compensation;</u>	8952
<u>(M) The superintendent of insurance;</u>	8953
<u>(N) The superintendent of public instruction;</u>	8954
<u>(O) The tax commissioner.</u>	8955
<u>Sec. 191.04. (A) In accordance with federal laws governing</u>	8956
<u>the confidentiality of individually identifiable health</u>	8957
<u>information, including the "Health Insurance Portability and</u>	8958
<u>Accountability Act of 1996," 104 Pub. L. No. 191, 110 Stat. 2021,</u>	8959
<u>42 U.S.C. 1320d et seq., as amended, and regulations promulgated</u>	8960
<u>by the United States department of health and human services to</u>	8961
<u>implement the act, a state agency may exchange protected health</u>	8962
<u>information with another state agency relating to eligibility for</u>	8963
<u>or enrollment in a health plan or relating to participation in a</u>	8964
<u>government program providing public benefits if the exchange of</u>	8965
<u>information is necessary for either or both of the following:</u>	8966
<u>(1) Operating a health plan;</u>	8967
<u>(2) Coordinating, or improving the administration or</u>	8968
<u>management of, the health care-related functions of at least one</u>	8969
<u>government program providing public benefits.</u>	8970
<u>(B) For fiscal year 2013 only, a state agency also may</u>	8971
<u>exchange personally identifiable information with another state</u>	8972
<u>agency for purposes related to and in support of a health</u>	8973
<u>transformation initiative identified by the executive director of</u>	8974
<u>the office of health transformation pursuant to division (C) of</u>	8975
<u>section 191.06 of the Revised Code.</u>	8976
<u>(C) With respect to a state agency that uses or discloses</u>	8977

personally identifiable information, all of the following 8978
conditions apply: 8979

(1) The state agency shall use or disclose the information 8980
only as permitted or required by state and federal law. In 8981
addition, if the information is obtained during fiscal year 2013 8982
from an exchange of personally identifiable information permitted 8983
under division (B) of this section, the agency shall also use or 8984
disclose the information in accordance with all operating 8985
protocols that apply to the use or disclosure. 8986

(2) If the state agency is a state agency other than the 8987
department of job and family services and it uses or discloses 8988
protected health information relating to a medicaid recipient, the 8989
agency shall comply with all state and federal laws that apply to 8990
the department of job and family services when that department, as 8991
the state's single state agency to supervise the medicaid program 8992
as specified in section 5111.01 of the Revised Code, uses or 8993
discloses protected health information. 8994

(3) A state agency shall implement administrative, physical, 8995
and technical safeguards for the purpose of protecting the 8996
confidentiality, integrity, and availability of personally 8997
identifiable information the creation, receipt, maintenance, or 8998
transmittal of which is affected or governed by an operating 8999
protocol. 9000

(4) If a state agency discovers an unauthorized use or 9001
disclosure of unsecured protected health information or unsecured 9002
individually identifiable health information, the state agency 9003
shall, not later than seventy-two hours after the discovery, do 9004
all of the following: 9005

(a) Identify the individuals who are the subject of the 9006
protected health information or individually identifiable health 9007
information; 9008

(b) Report the discovery and the names of all individuals identified pursuant to division (C)(4)(a) of this section to all other state agencies and the executive director of the office of health transformation or the executive director's designee; 9009
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(c) Mitigate, to the extent reasonably possible, any potential adverse effects of the unauthorized use or disclosure. 9013
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(5) A state agency shall make available to the executive director of the office of health transformation or the executive director's designee, and to any other state or federal governmental entity required by law to have access on that entity's request, all internal practices, records, and documentation relating to personally identifiable information it receives, uses, or discloses that is affected or governed by an operating protocol. 9015
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(6) On termination or expiration of an operating protocol and if feasible, a state agency shall return or destroy all personally identifiable information received directly from or received on behalf of another state agency. If the personally identifiable information is not returned or destroyed, the state agency maintaining the information shall extend the protections set forth in this section for as long as it is maintained. 9023
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(7) If a state agency enters into a subcontract or, when required by 45 C.F.R. 164.502(e)(2), a business associate agreement, the subcontract or business associate agreement shall require the subcontractor or business associate to comply with the terms of this section as if the subcontractor or business associate were a state agency. 9030
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Sec. 191.06. (A) The provisions of this section shall apply only for fiscal year 2013. 9036
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(B) The executive director of the office of health 9038

transformation or the executive director's designee may facilitate 9039
the coordination of operations and exchange of information between 9040
state agencies. The purpose of the executive director's authority 9041
under this section is to support agency collaboration for health 9042
transformation purposes, including modernization of the medicaid 9043
program, streamlining of health and human services programs in 9044
this state, and improving the quality, continuity, and efficiency 9045
of health care and health care support systems in this state. 9046

(C) In furtherance of the authority of the executive director 9047
of the office of health transformation under division (B) of this 9048
section, the executive director or the executive director's 9049
designee shall identify each health transformation initiative in 9050
this state that involves the participation of two or more state 9051
agencies and that permits or requires an interagency agreement to 9052
be entered into for purposes of specifying each participating 9053
agency's role in coordinating, operating, or funding the 9054
initiative, or facilitating the exchange of data or other 9055
information for the initiative. The executive director shall 9056
publish a list of the identified health transformation initiatives 9057
on the internet web site maintained by the office of health 9058
transformation. 9059

(D) For each health transformation initiative that is 9060
identified under division (C) of this section, the executive 9061
director or the executive director's designee shall, in 9062
consultation with each participating agency, adopt one or more 9063
operating protocols. Notwithstanding any law enacted by the 9064
general assembly or rule adopted by a state agency, the provisions 9065
in a protocol shall supersede any provisions in an interagency 9066
agreement, including an interagency agreement entered into under 9067
section 5101.10 or 5111.91 of the Revised Code, that differ from 9068
the provisions of the protocol. 9069

(E)(1) An operating protocol adopted under division (D) of 9070

this section shall include both of the following: 9071

(a) All terms necessary to meet the requirements of "other arrangements" between a covered entity and a business associate that are referenced in 45 C.F.R. 164.314(a)(2)(ii); 9072
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(b) If known, the date on which the protocol will terminate or expire. 9075
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(2) In addition, a protocol may specify the extent to which each participating agency is responsible and accountable for completing the tasks necessary for successful completion of the initiative, including tasks relating to the following components of the initiative: 9077
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(a) Workflow; 9082

(b) Funding; 9083

(c) Exchange of data or other information that is confidential pursuant to state or federal law. 9084
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(F) An operating protocol adopted under division (D) of this section shall have the same force and effect as an interagency agreement or data sharing agreement, and each participating agency shall comply with it. 9086
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(G) The director of job and family services shall determine whether a waiver of federal medicaid requirements or a medicaid state plan amendment is necessary to fulfill the requirements of this section. If the director determines a waiver or medicaid state plan amendment is necessary, the director shall apply to the United States secretary of health and human services for the waiver or amendment. 9090
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Sec. 306.04. (A) Except as otherwise provided in division (B) 9097
of this section, employees of a county transit board or a board of 9098
county commissioners operating a transit system are employees of 9099
the county. If the system is operated by the board of county 9100

commissioners, the board shall appoint an executive director, who 9101
shall be in the unclassified service. 9102

(B) Any county transit board that established its own civil 9103
service organization and procedure prior to ~~the effective date of~~ 9104
~~this amendment~~ October 25, 1995, shall continue to operate under 9105
that organization. Appointments and promotions in that system 9106
shall be made, as far as practicable, by competitive examination. 9107

A board that established its own civil service organization 9108
prior to ~~the effective date of this amendment~~ October 25, 1995, 9109
shall establish by rule the seniority provisions relating to 9110
street railway and motor bus employees in effect at the time of 9111
the acquisition of the transit system by the county. The vacation, 9112
holiday, and sick leave privileges shall not be regulated by other 9113
provisions of law relating to public employees of the state or 9114
county, except that the transit board, its officers and employees, 9115
shall be subject to the public employees retirement system of the 9116
state and the transit board shall assume any pension obligations 9117
which have been assumed by any publicly owned transit system which 9118
the county may acquire. 9119

(C) A county transit board or board of county commissioners 9120
operating a transit system may: 9121

(1) Acquire in its name by gift, grant, purchase, or 9122
condemnation and hold and operate real estate and interests 9123
therein and personal property suitable for its purposes; 9124

(2) In its name purchase, acquire, construct, enlarge, 9125
improve, equip, repair, maintain, sell, exchange, lease as lessee 9126
or lessor, receive a right of use of, and manage, control, and 9127
operate, in or out of the county, a county transit system 9128
consisting of all real estate and interests therein, personal 9129
property, and a combination thereof, for or related to the 9130
movement of persons including but not limited to street railway, 9131

tramline, subways, rapid transits, monorails, and passenger bus 9132
systems but excluding therefrom trucks, the movement of property 9133
by truck, and facilities designed for use in the movement of 9134
property by truck for hire; 9135

(3) Issue, with the approval of the county commissioners when 9136
the issuance is made by the transit board, revenue bonds of the 9137
county as provided in division (B) of section 306.09 of the 9138
Revised Code, to secure funds to accomplish its purposes. The 9139
principal of and interest on such bonds, together with all other 9140
payments required to be made by the trust agreement or indenture 9141
securing such bonds, shall be paid solely from revenues or other 9142
income accruing to the board from facilities of the county transit 9143
system designated in said agreement or indenture. 9144

(4) Enter into contracts in the exercise of the rights, 9145
powers, and duties conferred upon it, and execute all instruments 9146
necessary in the conduct of its business; 9147

(5) Fix, alter, and charge rates and other charges for the 9148
use of its real estate and interests therein, personal property, 9149
and combinations thereof; 9150

(6) Employ such financial consultants, accountants, 9151
appraisers, consulting engineers, architects, construction 9152
experts, attorneys-at-law, managers and other supervisory 9153
personnel, and other officers, employees, and agents as it 9154
determines necessary to conduct its business, and fix their 9155
compensation and duties; 9156

(7) Pledge, hypothecate, or otherwise encumber its revenues 9157
and other income as security for its obligations and enter into 9158
trust agreements or indentures for the benefit of revenue 9159
bondholders; 9160

(8) Borrow money or accept or contract to accept advances, 9161
loans, gifts, grants, devises, or bequests from and enter into 9162

contracts or agreements with any federal, state, or other 9163
governmental or private source and hold and apply advances, loans, 9164
gifts, grants, devises, or bequests according to the terms thereof 9165
including provisions which are required by such federal, state, or 9166
other governmental or private source to protect the interest of 9167
employees affected by such advances, loans, gifts, grants, 9168
devises, or bequests. Such advances, loans, gifts, grants, or 9169
devises may be subject to any reasonable reservation and any gift, 9170
grant, or devise or real estate may be in fee simple or any lesser 9171
estate. Any advances or loans received from any federal, state, or 9172
other governmental or private source may be repaid in accordance 9173
with the terms of such advance or loan. 9174

(9) Conduct investigations and surveys into the needs of the 9175
public within or without the county for transportation services to 9176
provide for the movement of persons within, into, or from the area 9177
serviced or to be serviced by the county transit system; 9178

(10) Enter into lawful arrangements with the appropriate 9179
federal or state department or agency, county, township, municipal 9180
corporation, or other political subdivision or public agency for 9181
the planning and installation of any public facilities which are 9182
determined necessary in the conduct of its business; 9183

(11) Purchase fire, extended coverage, and liability 9184
insurance for the real estate and interests therein, personal 9185
property and any combination thereof, used by or in connection 9186
with the county transit system and insurance covering the board 9187
and the county transit system and its officers and employees for 9188
liability for damage or injury to persons or property; 9189

(12) Procure and pay all or any part of the cost of group 9190
hospitalization, surgical, major medical, or sickness and accident 9191
insurance, or a combination thereof, for the officers and 9192
employees of the county transit system and their immediate 9193
dependents, issued by an insurance company, duly authorized to do 9194

business in this state; 9195

(13) Sell, lease, release, or otherwise dispose of real 9196
estate or interests therein or personal property owned by it and 9197
grant such easements across its real estate and interests therein 9198
as will not interfere with its use by the county transit system; 9199

(14) Establish rules for the use and operation of the county 9200
transit system including the real estate or interests therein, 9201
personal property or a combination of the foregoing used by or in 9202
connection with such system; 9203

(15) Exercise the power of eminent domain to appropriate any 9204
real estate or interests therein, personal property, franchises, 9205
or any combination thereof, within or without the county, 9206
necessary or proper in the exercise of its powers provided in 9207
sections 306.01 to 306.13 of the Revised Code, as provided in 9208
sections 163.01 to 163.22 of the Revised Code, and subject to 9209
divisions (15)(a), (b), and (c) of this section, provided that a 9210
county transit board or a board of county commissioners operating 9211
a transit system shall not proceed to so appropriate real property 9212
outside its territorial boundaries, until it has served at the 9213
office of the county commissioners of the county in which it is 9214
proposed to appropriate real property, a notice describing the 9215
real property to be taken and the purpose for which it is proposed 9216
to be taken, and such county commissioners have entered on their 9217
journal within thirty days after such service a resolution 9218
approving such appropriation; 9219

(a) Nothing contained in this division authorizes a county 9220
transit board or a board of county commissioners to appropriate 9221
any land, rights, rights-of-way, franchises, or easements 9222
belonging to the state or to a municipal corporation without the 9223
consent of the state or of the municipal corporation, and no 9224
county transit board or board of county commissioners shall 9225
exercise the right of eminent domain to acquire any certificate of 9226

public convenience and necessity, or any part thereof, issued to a 9227
for-hire motor transportation company carrier by the public 9228
utilities commission of Ohio or by the ~~interstate commerce~~ 9229
~~commission~~ federal motor carrier safety administration of the 9230
United States, or to take or disturb other real estate or 9231
interests therein, personal property, or any combination thereof 9232
belonging to any municipal corporation without the consent of the 9233
legislative authority of such municipal corporation, or take or 9234
disturb real estate or interests therein, personal property, or 9235
any combination thereof belonging to any other political 9236
subdivision, public corporation, public utility, or common 9237
carrier, which is necessary and convenient in the operation of 9238
such political subdivision, public corporation, public utility, or 9239
common carrier unless provision is made for the restoration, 9240
relocation, or duplication of that taken or upon the election of 9241
such political subdivision, public corporation, public utility, or 9242
common carrier for the payment of compensation, if any, at the 9243
sole cost of the county transit system. 9244

(b) If any restoration or duplication proposed to be made 9245
under this division involves a relocation, the new location shall 9246
have at least comparable utilitarian value and effectiveness, and 9247
such relocation shall not impair the ability of the public utility 9248
or common carrier to compete in its original area of operation. 9249

(c) If such restoration or duplication proposed to be made 9250
under this division involves a relocation, the county transit 9251
board or board of county commissioners shall acquire no interest 9252
or right in or to the appropriated property or facility until the 9253
relocated property or facility is available for use and until 9254
marketable title thereto has been transferred to the political 9255
subdivision, public corporation, public utility, or common 9256
carrier. Nothing in this division shall require any board of 9257
county commissioners or county transit board operating a county 9258

transit system to so restore, relocate, or duplicate, if all of 9259
the real estate and interests therein, personal property, and any 9260
combination of the foregoing which is owned by a public utility or 9261
common carrier and used by it or in connection with the movement 9262
of persons, is acquired by exercise of the power of eminent 9263
domain. 9264

(16) When real property is acquired that is located outside 9265
the county and is removed from the tax duplicate, the county 9266
transit board or board of county commissioners operating a transit 9267
system shall pay annually to the county treasurer of the county in 9268
which that property is located, commencing with the first tax year 9269
in which that property is removed from the tax duplicate, an 9270
amount of money in lieu of taxes equal to the smaller of the 9271
following: 9272

(a) The last annual installment of taxes due from the 9273
acquired property before removal from the tax duplicate; 9274

(b) An amount equal to the difference between the combined 9275
revenue from real estate taxes of all the taxing districts in 9276
which the property is located in the tax year immediately prior to 9277
the removal of the acquired property from the tax duplicate, and 9278
either: 9279

(i) The total revenue which would be produced by the tax rate 9280
of each such taxing district in the tax year immediately prior to 9281
the removal of the acquired property from the tax duplicate, 9282
applied to the real estate tax duplicate of each of such taxing 9283
districts in each tax year subsequent to the year of removal; or 9284

(ii) The combined revenue from real estate taxes of all such 9285
taxing districts in each tax year subsequent to the year of 9286
removal, whichever is the greater. 9287

The county transit board or board of county commissioners may 9288
be exempted from such payment by agreement of the affected taxing 9289

district or districts in the county in which the property is 9290
located. 9291

The county auditor of the county in which that property is 9292
located shall apportion each such annual payment to each taxing 9293
district as if the annual payment had been levied and collected as 9294
a tax. 9295

Those annual payments shall never again be made after they 9296
have ceased. 9297

(17) Sue or be sued, plead or be impleaded, and be held 9298
liable in any court of proper jurisdiction for damages received by 9299
reason of negligence, in the same manner and to the same extent as 9300
if the county transit system were privately operated, provided, 9301
that no funds of a county other than those of the county transit 9302
board or, if the transit system is operated by the board of county 9303
commissioners, other than those in the account for the county 9304
transit system created under division (C) of section 306.01 of the 9305
Revised Code, shall be available for the satisfaction of judgments 9306
rendered against that system; 9307

(18) Annually prepare and make available for public 9308
inspection a report in condensed form showing the financial 9309
results of the operation of the county transit system. For systems 9310
operated by a county transit board, copies of this report shall be 9311
furnished to the county commissioners as well as a monthly summary 9312
statement of revenues and expenses for the preceding month 9313
sufficient to show the exact financial condition of the county 9314
transit system as of the last day of the preceding month. 9315

(19) With the approval of the county commissioners when the 9316
action is taken by the transit board, and without competitive 9317
bidding, sell, lease, or grant the right of use of all or a 9318
portion of the county transit system to any other political 9319
subdivision, taxing district, or other public body or agency 9320

having the power to operate a transit system; 9321

(20) Enter into and supervise franchise agreements for the 9322
operation of a county transit system; 9323

(21) Accept the assignment of and then supervise an existing 9324
franchise agreement for the operation of a county transit system. 9325

Sec. 306.36. (A) The board of trustees of a regional transit 9326
authority may exercise the power of eminent domain to appropriate 9327
any land, rights, rights-of-way, franchise, power lines, 9328
easements, or other property, within or without the territorial 9329
boundaries of the regional transit authority, necessary or proper 9330
for the construction or efficient operation of any transit 9331
facility or access thereto under its jurisdiction pursuant to the 9332
procedure provided in sections 163.01 to 163.22, inclusive, of the 9333
Revised Code, and subject to division (B) of this section, 9334
provided that a regional transit authority shall not proceed to so 9335
appropriate real property outside its territorial boundaries, 9336
until it has served at the office of the county commissioners of 9337
the county in which it is proposed to appropriate real property, a 9338
notice describing the real property to be taken and the purpose 9339
for which it is proposed to be taken, and such county 9340
commissioners have entered on their journal within thirty days 9341
after such service a resolution approving such appropriation. 9342

(B) Nothing contained in sections 306.30 to 306.53, 9343
inclusive, of the Revised Code authorizes a regional transit 9344
authority to appropriate any land, rights, rights-of-way, 9345
franchises, or easements belonging to the state or a municipal 9346
corporation without the consent of the state or municipal 9347
corporation, and no regional transit authority shall exercise the 9348
right of eminent domain to acquire any certificate of public 9349
convenience and necessity, or any part thereof, issued to a 9350
for-hire motor ~~transportation company~~ carrier by the public 9351

utilities commission of Ohio or by the ~~interstate commerce~~ 9352
~~commission of the United States~~ federal motor carrier safety 9353
administration, or to take or disturb other property or facilities 9354
belonging to any political subdivision, public corporation, public 9355
utility, or common carrier, which property or facility is 9356
necessary and convenient in the operation of such political 9357
subdivision, public corporation, public utility, or common 9358
carrier, unless provision is made for the restoration, relocation, 9359
or duplication of such property or facility, or upon the election 9360
of such political subdivision, public corporation, public utility, 9361
or common carrier, for the payment of compensation, if any, at the 9362
sole cost of the regional transit authority, provided: 9363

(1) If any restoration or duplication of any property or 9364
facility proposed to be made under this division involves a 9365
relocation of such property or facility the new facility and 9366
location thereof shall be of at least comparable utilitarian value 9367
and effectiveness and such relocation shall not impair the ability 9368
of the public utility or common carrier to compete in its original 9369
area of operation. 9370

(2) If any restoration or duplication of any property or 9371
facility proposed to be made under this division involves a 9372
relocation of such property or facility, the regional transit 9373
authority shall acquire no interest or right in or to the 9374
appropriated property or facility until the relocated property or 9375
facility is available for use and until marketable title thereto 9376
has been transferred to the public utility or common carrier. 9377

(C) When real property is acquired which is located outside 9378
the territorial boundaries of the regional transit authority and 9379
which is removed from the tax duplicate, the regional transit 9380
authority shall pay annually to the county treasurer of the county 9381
in which such property is located, commencing with the first tax 9382
year in which such property is removed from the tax duplicate, an 9383

amount of money in lieu of taxes equal to the smaller of the 9384
following: 9385

(1) The last annual installment of taxes due from the 9386
acquired property before removal from the tax duplicate; 9387

(2) An amount equal to the difference between the combined 9388
revenue from real estate taxes of all the taxing districts in 9389
which such property is located in the tax year immediately prior 9390
to the removal of such acquired property from the tax duplicate, 9391
and either: 9392

(a) The total revenue which would be produced by the tax rate 9393
of each such taxing district in the tax year immediately prior to 9394
the removal of such acquired property from the tax duplicate, 9395
applied to the real estate tax duplicate of each of such taxing 9396
districts in each tax year subsequent to the year of removal; or 9397

(b) The combined revenue from real estate taxes of all such 9398
taxing districts in each tax year subsequent to the year of 9399
removal, whichever is the greater. 9400

The county auditor of each county in which such property is 9401
located shall apportion each such annual payment to each taxing 9402
district as if such annual payment has been levied and collected 9403
as a tax. 9404

Such annual payments shall never again be made after they 9405
have ceased. 9406

The regional transit authority may be exempted from such 9407
payment by agreement of the affected taxing district or districts 9408
in the county in which such property is located. 9409

Sec. 307.05. As used in this section, "emergency medical 9410
service organization" has the same meaning as in section 4765.01 9411
of the Revised Code. 9412

A board of county commissioners may operate an ambulance 9413

service organization or emergency medical service organization, 9414
or, in counties with a population of forty thousand or less, may 9415
operate a nonemergency patient transport service organization, or 9416
may enter into a contract with one or more counties, townships, 9417
municipal corporations, nonprofit corporations, joint emergency 9418
medical services districts, fire and ambulance districts, or 9419
private ambulance owners, regardless of whether such counties, 9420
townships, municipal corporations, nonprofit corporations, joint 9421
emergency medical services districts, fire and ambulance 9422
districts, or private ambulance owners are located within or 9423
without the state, in order to furnish or obtain the services of 9424
ambulance service organizations, to furnish or obtain additional 9425
services from ambulance service organizations in times of 9426
emergency, to furnish or obtain the services of emergency medical 9427
service organizations, or, in counties with a population of forty 9428
thousand or less, to furnish or obtain services of nonemergency 9429
patient transport service organizations, or may enter into a 9430
contract with any such entity to furnish or obtain the interchange 9431
of services from ambulance or emergency medical service 9432
organizations, or, within counties with a population of forty 9433
thousand or less, to furnish or obtain the interchange of services 9434
from nonemergency patient transport service organizations, within 9435
the territories of the contracting subdivisions. Except in the 9436
case of a contract with a joint emergency medical services 9437
district to obtain the services of emergency medical service 9438
organizations, such contracts shall not be entered into with a 9439
public agency or nonprofit corporation that receives more than 9440
half of its operating funds from governmental entities with the 9441
intention of directly competing with the operation of other 9442
ambulance service organizations, nonemergency patient transport 9443
service organizations, or emergency medical service organizations 9444
in the county unless the public agency or nonprofit corporation is 9445
awarded the contract after submitting the lowest and best bid to 9446

the board of county commissioners. Any county wishing to commence 9447
operation of a nonemergency patient transport service organization 9448
or wishing to enter into a contract for the first time to furnish 9449
or obtain services from a nonemergency patient transport service 9450
organization on or after March 1, 1993, including a county in 9451
which a private provider has been providing the service, shall 9452
demonstrate the need for public funding for the service to, and 9453
obtain approval from, the state board of emergency medical, fire, 9454
and transportation services or its immediate successor board prior 9455
to operating or funding the organization. 9456

When such an organization is operated by the board, the 9457
organization may be administered by the board, by the county 9458
sheriff, or by another county officer or employee designated by 9459
the board. All rules, including the determining of reasonable 9460
rates, necessary for the establishment, operation, and maintenance 9461
of such an organization shall be adopted by the board. 9462

A contract for services of an ambulance service, nonemergency 9463
patient transport service, or emergency medical service 9464
organization shall include the terms, conditions, and stipulations 9465
as agreed to by the parties to the contract. It may provide for a 9466
fixed annual charge to be paid at the times agreed upon and 9467
stipulated in the contract, or for compensation based upon a 9468
stipulated price for each run, call, or emergency or the number of 9469
persons or pieces of apparatus employed, or the elapsed time of 9470
service required in such run, call, or emergency, or any 9471
combination thereof. 9472

Sec. 307.051. As used in this section, "emergency medical 9473
service organization" has the same meaning as in section 4766.01 9474
of the Revised Code. 9475

A board of county commissioners, by adoption of an 9476
appropriate resolution, may choose to have the ~~Ohio~~ state board of 9477

emergency medical, fire, and transportation board services license 9478
any emergency medical service organization it operates. If a board 9479
adopts such a resolution, Chapter 4766. of the Revised Code, 9480
except for sections 4766.06 and 4766.99 of the Revised Code, 9481
applies to the county emergency medical service organization. All 9482
rules adopted under the applicable sections of that chapter also 9483
apply to the organization. A board, by adoption of an appropriate 9484
resolution, may remove its emergency medical service organization 9485
from the jurisdiction of the ~~Ohio~~ state board of emergency 9486
medical, fire, and transportation board services. 9487

Sec. 307.055. (A) Subject to the terms and conditions of the 9488
joint resolution creating it, each joint emergency medical 9489
services district may furnish ambulance services and emergency 9490
medical services by one of the following methods: 9491

(1) By operating an emergency medical service organization as 9492
defined in section 4765.01 of the Revised Code; 9493

(2) By contracting for the operation of one or more 9494
facilities pursuant to division (C) or (D) of this section; 9495

(3) By providing necessary services and equipment to the 9496
district either directly or under a contract entered into pursuant 9497
to division (B) of this section; 9498

(4) By providing service through any combination of methods 9499
described in divisions (A)(1) to (3) of this section. 9500

(B) In order to obtain ambulance service, to obtain 9501
additional ambulance service in times of emergency, or to obtain 9502
emergency medical services, a joint emergency medical services 9503
district may enter into a contract, for a period not to exceed 9504
three years, with one or more counties, townships, municipal 9505
corporations, joint fire districts, other governmental units that 9506
provide ambulance service or emergency medical services, nonprofit 9507

corporations, or private ambulance owners, regardless of whether 9508
the entities contracted with are located within or outside this 9509
state, upon such terms as are agreed to, to furnish or receive 9510
ambulance services or the interchange of ambulance services or 9511
emergency medical services within the several territories of the 9512
contracting subdivisions, if the contract is first authorized by 9513
all boards of trustees and legislative authorities in the 9514
territories to be served. 9515

Such a contract may provide for a fixed annual charge to be 9516
paid at the times agreed upon and stipulated in the contract; or 9517
for compensation based on a stipulated price for each run, call, 9518
or emergency or based on the elapsed time of service required for 9519
each run, call, or emergency, or based on any combination of 9520
these. 9521

Expenditures of a district for ambulance service or emergency 9522
medical service, whether pursuant to contract or otherwise, are 9523
lawful expenditures, regardless of whether the district or the 9524
party with which it contracts charges an additional fee to users 9525
of the service. 9526

(C) The board of trustees may enter into a contract with any 9527
person, municipal corporation, township, or other political 9528
subdivision, and any political subdivision may contract with the 9529
board, for the operation and maintenance of emergency medical 9530
services facilities regardless of whether the facilities used are 9531
owned or leased by the district, by another political subdivision, 9532
or by the contractor. 9533

(D) The district may purchase, lease, and maintain all 9534
materials, buildings, land, and equipment, including vehicles, the 9535
board considers necessary for the district. 9536

When the board finds, by resolution, that the district has 9537
personal property that is not needed for public use, or is 9538

obsolete or unfit for the use for which it was acquired, the board 9539
may dispose of the property in the same manner as provided in 9540
section 307.12 of the Revised Code. 9541

(E) Except in the case of a contract with a board of county 9542
commissioners for the provision of services of an emergency 9543
medical service organization, any contract entered into by a joint 9544
emergency medical services district shall conform to the same 9545
bidding requirements that apply to county contracts under sections 9546
307.86 to 307.92 of the Revised Code. 9547

(F) A county participating in a joint district may contribute 9548
any of its rights or interests in real or personal property, 9549
including money, and may contribute services to the district. Any 9550
such contributions shall be made by a written agreement between 9551
the contributing county and the district, specifying the 9552
contribution as well as the rights of the participating counties 9553
in the contributed property. Written agreements shall also be 9554
prepared specifying the rights of participating counties in 9555
property acquired by the district other than by contribution of a 9556
participating county. Written agreements required by this division 9557
may be amended only by written agreement of all parties to the 9558
original agreement. 9559

(G) A district's board of trustees, by adoption of an 9560
appropriate resolution, may choose to have the ~~Ohio~~ state board of 9561
emergency medical, fire, and transportation board services license 9562
any emergency medical service organization the district operates. 9563
If a board adopts such a resolution, Chapter 4766. of the Revised 9564
Code, except for sections 4766.06 and 4766.99 of the Revised Code, 9565
applies to the district emergency medical service organization. 9566
All rules adopted under the applicable sections of that chapter 9567
also apply to the organization. A board, by adoption of an 9568
appropriate resolution, may remove the district emergency medical 9569
service organization from the jurisdiction of the ~~Ohio~~ state board 9570

of emergency medical, fire, and transportation board services. 9571

Sec. 309.09. (A) The prosecuting attorney shall be the legal 9572
adviser of the board of county commissioners, board of elections, 9573
all other county officers and boards, and all tax-supported public 9574
libraries, and any of them may require written opinions or 9575
instructions from the prosecuting attorney in matters connected 9576
with their official duties. The prosecuting attorney shall 9577
prosecute and defend all suits and actions that any such officer, 9578
board, or tax-supported public library directs or to which it is a 9579
party, and no county officer may employ any other counsel or 9580
attorney at the expense of the county, except as provided in 9581
section 305.14 of the Revised Code. The prosecuting attorney shall 9582
also defend all civil actions in the court of common pleas brought 9583
pursuant to division (B)(1) of section 2743.48 of the Revised 9584
Code. 9585

(B)(1) The prosecuting attorney shall be the legal adviser 9586
for all township officers, boards, and commissions, unless, 9587
subject to division (B)(2) of this section, the township has 9588
adopted a limited home rule government pursuant to Chapter 504. of 9589
the Revised Code and has not entered into a contract to have the 9590
prosecuting attorney serve as the township law director, in which 9591
case, subject to division (B)(2) of this section, the township law 9592
director, whether serving full-time or part-time, shall be the 9593
legal adviser for all township officers, boards, and commissions. 9594
When the board of township trustees finds it advisable or 9595
necessary to have additional legal counsel, it may employ an 9596
attorney other than the township law director or the prosecuting 9597
attorney of the county, either for a particular matter or on an 9598
annual basis, to represent the township and its officers, boards, 9599
and commissions in their official capacities and to advise them on 9600
legal matters. No such legal counsel may be employed, except on 9601
the order of the board of township trustees, duly entered upon its 9602

journal, in which the compensation to be paid for the legal 9603
services shall be fixed. The compensation shall be paid from the 9604
township fund. 9605

Nothing in this division confers any of the powers or duties 9606
of a prosecuting attorney under section 309.08 of the Revised Code 9607
upon a township law director. 9608

(2)(a) If any township in the county served by the 9609
prosecuting attorney has adopted any resolution regarding the 9610
operation of adult entertainment establishments pursuant to the 9611
authority that is granted under section 503.52 of the Revised Code 9612
or if a resolution of that nature has been adopted under section 9613
503.53 of the Revised Code in a township in the county served by 9614
the prosecuting attorney, all of the following apply: 9615

(i) Upon the request of a township in the county that has 9616
adopted, or in which has been adopted, a resolution of that nature 9617
that is made pursuant to division (E)(1)(c) of section 503.52 of 9618
the Revised Code, the prosecuting attorney shall prosecute and 9619
defend on behalf of the township in the trial and argument in any 9620
court or tribunal of any challenge to the validity of the 9621
resolution. If the challenge to the validity of the resolution is 9622
before a federal court, the prosecuting attorney may request the 9623
attorney general to assist the prosecuting attorney in prosecuting 9624
and defending the challenge and, upon the prosecuting attorney's 9625
making of such a request, the attorney general shall assist the 9626
prosecuting attorney in performing that service if the resolution 9627
was drafted in accordance with legal guidance provided by the 9628
attorney general as described in division (B)(2) of section 503.52 9629
of the Revised Code. The attorney general shall provide this 9630
assistance without charge to the township for which the service is 9631
performed. If a township adopts a resolution without the legal 9632
guidance of the attorney general, the attorney general is not 9633
required to provide assistance as described in this division to a 9634

prosecuting attorney. 9635

(ii) Upon the request of a township in the county that has 9636
adopted, or in which has been adopted, a resolution of that nature 9637
that is made pursuant to division (E)(1)(a) of section 503.52 of 9638
the Revised Code, the prosecuting attorney shall prosecute and 9639
defend on behalf of the township a civil action to enjoin the 9640
violation of the resolution in question. 9641

(iii) Upon the request of a township in the county that has 9642
adopted, or in which has been adopted, a resolution of that nature 9643
that is made pursuant to division (E)(1)(b) of section 503.52 of 9644
the Revised Code, the prosecuting attorney shall prosecute and 9645
defend on behalf of the township a civil action under Chapter 9646
3767. of the Revised Code to abate as a nuisance the place in the 9647
unincorporated area of the township at which the resolution is 9648
being or has been violated. Proceeds from the sale of personal 9649
property or contents seized pursuant to the action shall be 9650
applied and deposited in accordance with division (E)(1)(b) of 9651
section 503.52 of the Revised Code. 9652

(b) The provisions of division (B)(2)(a) of this section 9653
apply regarding all townships, including townships that have 9654
adopted a limited home rule government pursuant to Chapter 504. of 9655
the Revised Code, and regardless of whether a township that has so 9656
adopted a limited home rule government has entered into a contract 9657
with the prosecuting attorney as described in division (B) of 9658
section 504.15 of the Revised Code or has appointed a law director 9659
as described in division (A) of that section. 9660

The prosecuting attorney shall prosecute and defend in the 9661
actions and proceedings described in division (B)(2)(a) of this 9662
section without charge to the township for which the services are 9663
performed. 9664

(C) Whenever the board of county commissioners employs an 9665

attorney other than the prosecuting attorney of the county, 9666
without the authorization of the court of common pleas as provided 9667
in section 305.14 of the Revised Code, either for a particular 9668
matter or on an annual basis, to represent the board in its 9669
official capacity and to advise it on legal matters, the board 9670
shall enter upon its journal an order of the board in which the 9671
compensation to be paid for the legal services shall be fixed. The 9672
compensation shall be paid from the county general fund. The total 9673
compensation paid, in any year, by the board for legal services 9674
under this division shall not exceed the total annual compensation 9675
of the prosecuting attorney for that county. 9676

(D) The prosecuting attorney and the board of county 9677
commissioners jointly may contract with a board of park 9678
commissioners under section 1545.07 of the Revised Code for the 9679
prosecuting attorney to provide legal services to the park 9680
district the board of park commissioners operates. 9681

(E) The prosecuting attorney may be, in the prosecuting 9682
attorney's discretion and with the approval of the board of county 9683
commissioners, the legal adviser of a joint fire district created 9684
under section 505.371 of the Revised Code at no cost to the 9685
district or may be the legal adviser to the district under a 9686
contract that the prosecuting attorney and the district enter 9687
into, and that the board of county ~~commissioner~~ commissioners 9688
approves, to authorize the prosecuting attorney to provide legal 9689
services to the district. 9690

(F) The prosecuting attorney may be, in the prosecuting 9691
attorney's discretion and with the approval of the board of county 9692
commissioners, the legal adviser of a joint ambulance district 9693
created under section 505.71 of the Revised Code at no cost to the 9694
district or may be the legal adviser to the district under a 9695
contract that the prosecuting attorney and the district enter 9696
into, and that the board of county commissioners approves, to 9697

authorize the prosecuting attorney to provide legal services to 9698
the district. 9699

(G) The prosecuting attorney may be, in the prosecuting 9700
attorney's discretion and with the approval of the board of county 9701
commissioners, the legal adviser of a joint emergency medical 9702
services district created under section 307.052 of the Revised 9703
Code at no cost to the district or may be the legal adviser to the 9704
district under a contract that the prosecuting attorney and the 9705
district enter into, and that the board of county commissioners 9706
approves, to authorize the prosecuting attorney to provide legal 9707
services to the district. 9708

(H) The prosecuting attorney may be, in the prosecuting 9709
attorney's discretion and with the approval of the board of county 9710
commissioners, the legal adviser of a fire and ambulance district 9711
created under section 505.375 of the Revised Code at no cost to 9712
the district or may be the legal adviser to the district under a 9713
contract that the prosecuting attorney and the district enter 9714
into, and that the board of county commissioners approves, to 9715
authorize the prosecuting attorney to provide legal services to 9716
the district. 9717

(I) All money received pursuant to a contract entered into 9718
under division (D), (E), (F), (G), or (H) of this section shall be 9719
deposited into the prosecuting attorney's legal services fund, 9720
which shall be established in the county treasury of each county 9721
in which such a contract exists. Moneys in that fund may be 9722
appropriated only to the prosecuting attorney for the purpose of 9723
providing legal services to a park district, joint fire district, 9724
joint ambulance district, joint emergency medical services 9725
district, or a fire and ambulance district, as applicable, under a 9726
contract entered into under the applicable division. 9727

Sec. 313.121. (A) As used in this section, "parent" means 9728

either parent, except that if one parent has been designated the residential parent and legal custodian of the child, "parent" means the designated residential parent and legal custodian, and if a person other than a parent is the child's legal guardian, "parent" means the legal guardian.

(B) If a child under two years of age dies suddenly when in apparent good health, the death shall be reported immediately to the coroner of the county in which the death occurred, as required by section 313.12 of the Revised Code. Except as provided in division (C) of this section, the coroner or deputy coroner shall perform an autopsy on the child. The autopsy shall be performed in accordance with ~~public health council~~ rules adopted by the director of health under section 313.122 of the Revised Code. The coroner or deputy coroner may perform research procedures and tests when performing the autopsy.

(C) A coroner or deputy coroner is not required to perform an autopsy if the coroner of the county in which the death occurred or a court with jurisdiction over the deceased body determines under section 313.131 of the Revised Code that an autopsy is contrary to the religious beliefs of the child. If the coroner or the court makes such a determination, the coroner shall notify the health district or department of health with jurisdiction in the area in which the child's parent resides. For purposes of this division, the religious beliefs of the parents of a child shall be considered to be the religious beliefs of the child.

(D) If the child's parent makes a written or verbal request for the preliminary results of the autopsy after the results are available, the coroner, or a person designated by ~~him~~ the coroner, shall give the parent an oral statement of the preliminary results.

The coroner, within a reasonable time after the final results of the autopsy are reported, shall send written notice of the

results to the state department of health, the health district or 9761
department with jurisdiction in the area in which the child's 9762
parent resides, and, upon the request of a parent of the child, to 9763
the child's attending physician. Upon the written request of a 9764
parent of the child and the payment of the transcript fee required 9765
by section 313.10 of the Revised Code, the coroner shall send 9766
written notice of the final results to that parent. The notice 9767
sent to the state department of health shall include all of the 9768
information specified ~~by rule of the public health council in~~ in 9769
rules adopted under section 313.122 of the Revised Code. 9770

(E) On the occurrence of any of the following, the health 9771
district or department with jurisdiction in the area in which the 9772
child's parent resides shall offer the parent any counseling or 9773
other supportive services it has available: 9774

(1) When it learns through any source that an autopsy is 9775
being performed on a child under two years of age who died 9776
suddenly when in apparent good health; 9777

(2) When it receives notice that the final result of an 9778
autopsy performed pursuant to this section concluded that the 9779
child died of sudden infant death syndrome; 9780

(3) When it is notified by the coroner that, pursuant to 9781
division (C) of this section, an autopsy was not performed. 9782

(F) When a health district or department receives notice that 9783
the final result of an autopsy performed pursuant to this section 9784
concluded that the child died of sudden infant death syndrome or 9785
that, pursuant to division (C) of this section, an autopsy was not 9786
performed but sudden infant death syndrome may have been the cause 9787
of death, it shall offer the child's parent information about 9788
sudden infant death syndrome. The state department of health shall 9789
ensure that current information on sudden infant death syndrome is 9790
available for distribution by health districts and departments. 9791

Sec. 313.122. The ~~public~~ director of health council, after 9792
reviewing and considering any recommendations made by the Ohio 9793
state coroners association, shall adopt rules in accordance with 9794
Chapter 119. of the Revised Code establishing a protocol governing 9795
the performance of autopsies under section 313.121 of the Revised 9796
Code. The rules shall specify the information derived from an 9797
autopsy that a coroner is required to report to the state 9798
department of health. The ~~public health council~~ director shall not 9799
amend the rules adopted under this section unless it notifies the 9800
Ohio state coroners association of the proposed changes and 9801
consults with the association. 9802

Sec. 313.16. In counties where no coroner's laboratory has 9803
been established or where the coroner's laboratory does not have 9804
the equipment or personnel to follow the protocol established ~~by~~ 9805
~~rule of~~ in rules adopted by the ~~public~~ director of health council 9806
~~adopted~~ under section 313.122 of the Revised Code, the coroner may 9807
request a coroner of a county in which such a laboratory is 9808
established or that has a laboratory able to follow the ~~public~~ 9809
~~health council's~~ director's protocol to perform necessary 9810
laboratory examinations, the cost of which shall be no greater 9811
than the actual value of the services of technicians and the 9812
materials used in performing such examination. Money derived from 9813
the fees paid for these examinations shall be kept in a special 9814
fund, for the use of the coroner's laboratory, from which fund 9815
replacements can be made. Such funds shall be used to purchase 9816
necessary supplies and equipment for the laboratory and to pay any 9817
associated costs incurred in the administration of this section at 9818
the coroner's discretion. 9819

Sec. 339.091. Before the board of county commissioners, board 9820
of county hospital trustees, or county hospital commission may 9821

enter into an initial agreement for the acquisition, operation, or 9822
lease under section 140.03, 140.05, 339.09, or 339.14 of the 9823
Revised Code of a county hospital operated by a board of county 9824
hospital trustees under section 339.06 of the Revised Code, the 9825
board of county commissioners shall review the agreement. If it 9826
finds that the agreement will meet the needs of the residents of 9827
the county for hospital service, the board of county commissioners 9828
may adopt a resolution authorizing the board of county 9829
commissioners, board of county hospital trustees, or county 9830
hospital commission to enter into the agreement. On adoption of 9831
the resolution, the board of county commissioners, board of county 9832
hospital trustees, or county hospital commission may enter into 9833
the agreement. 9834

The requirements of this section do not apply to an agreement 9835
if one or more hospitals classified as general hospitals by the 9836
~~public director of health council~~ under section 3701.07 of the 9837
Revised Code are operating in the same county as the county 9838
hospital. 9839

Sec. 340.03. (A) Subject to rules issued by the director of 9840
mental health after consultation with relevant constituencies as 9841
required by division (L) of section 5119.06 of the Revised Code, 9842
with regard to mental health services, the board of alcohol, drug 9843
addiction, and mental health services shall: 9844

(1) Serve as the community mental health planning agency for 9845
the county or counties under its jurisdiction, and in so doing it 9846
shall: 9847

(a) Evaluate the need for facilities and community mental 9848
health services; 9849

(b) In cooperation with other local and regional planning and 9850
funding bodies and with relevant ethnic organizations, assess the 9851
community mental health needs, set priorities, and develop plans 9852

for the operation of facilities and community mental health 9853
services; 9854

(c) In accordance with guidelines issued by the director of 9855
mental health after consultation with board representatives, 9856
annually develop and submit to the department of mental health a 9857
community mental health plan listing community mental health 9858
needs, including the needs of all residents of the district now 9859
residing in state mental institutions and severely mentally 9860
disabled adults, children, and adolescents; all children subject 9861
to a determination made pursuant to section 121.38 of the Revised 9862
Code; and all the facilities and community mental health services 9863
that are or will be in operation or provided during the period for 9864
which the plan will be in operation in the service district to 9865
meet such needs. 9866

The plan shall include, but not be limited to, a statement of 9867
which of the services listed in section 340.09 of the Revised Code 9868
the board intends to make available. The board must include crisis 9869
intervention services for individuals in an emergency situation in 9870
the plan and explain how the board intends to make such services 9871
available. The plan must also include a statement of the inpatient 9872
and community-based services the board proposes that the 9873
department operate, an assessment of the number and types of 9874
residential facilities needed, such other information as the 9875
department requests, and a budget for moneys the board expects to 9876
receive. The department shall approve or disapprove the plan, in 9877
whole or in part, according to the criteria developed pursuant to 9878
section 5119.61 of the Revised Code. The department's statement of 9879
approval or disapproval shall specify the inpatient and the 9880
community-based services that the department will operate for the 9881
board. Eligibility for state and federal funding shall be 9882
contingent upon an approved plan or relevant part of a plan. 9883

If a board determines that it is necessary to amend a plan or 9884

an allocation request that has been approved under division 9885
(A)(1)(c) of this section, the board shall submit a proposed 9886
amendment to the director. The director may approve or disapprove 9887
all or part of the amendment. The director shall inform the board 9888
of the reasons for disapproval of all or part of an amendment and 9889
of the criteria that must be met before the amendment may be 9890
approved. The director shall provide the board an opportunity to 9891
present its case on behalf of the amendment. The director shall 9892
give the board a reasonable time in which to meet the criteria, 9893
and shall offer the board technical assistance to help it meet the 9894
criteria. 9895

The board shall implement the plan approved by the 9896
department. 9897

(d) Promote, arrange, and implement working agreements with 9898
social agencies, both public and private, and with judicial 9899
agencies. 9900

(2) Investigate, or request another agency to investigate, 9901
any complaint alleging abuse or neglect of any person receiving 9902
services from a community mental health agency as defined in 9903
section 5122.01 of the Revised Code, or ~~from~~ alleging abuse or 9904
neglect of a person with mental illness or severe mental 9905
disability residing in a residential facility licensed under 9906
section 5119.22 of the Revised Code. If the investigation 9907
substantiates the charge of abuse or neglect, the board shall take 9908
whatever action it determines is necessary to correct the 9909
situation, including notification of the appropriate authorities. 9910
Upon request, the board shall provide information about such 9911
investigations to the department. 9912

(3) For the purpose of section 5119.611 of the Revised Code, 9913
cooperate with the director of mental health in visiting and 9914
evaluating whether the services of a community mental health 9915
agency satisfy the certification standards established by rules 9916

adopted under that section; 9917

(4) In accordance with criteria established under division 9918
(E) of section 5119.61 of the Revised Code, review and evaluate 9919
the quality, effectiveness, and efficiency of services provided 9920
through its community mental health plan and submit its findings 9921
and recommendations to the department of mental health; 9922

(5) In accordance with section 5119.22 of the Revised Code, 9923
review applications for residential facility licenses and 9924
recommend to the department of mental health approval or 9925
disapproval of applications; 9926

(6) Audit, in accordance with rules adopted by the auditor of 9927
state pursuant to section 117.20 of the Revised Code, at least 9928
annually all programs and services provided under contract with 9929
the board. In so doing, the board may contract for or employ the 9930
services of private auditors. A copy of the fiscal audit report 9931
shall be provided to the director of mental health, the auditor of 9932
state, and the county auditor of each county in the board's 9933
district. 9934

(7) Recruit and promote local financial support for mental 9935
health programs from private and public sources; 9936

(8)(a) Enter into contracts with public and private 9937
facilities for the operation of facility services included in the 9938
board's community mental health plan and enter into contracts with 9939
public and private community mental health agencies for the 9940
provision of community mental health services that are listed in 9941
section 340.09 of the Revised Code and included in the board's 9942
community mental health plan. The board may not contract with a 9943
community mental health agency to provide community mental health 9944
services included in the board's community mental health plan 9945
unless the services are certified by the director of mental health 9946
under section 5119.611 of the Revised Code. Section 307.86 of the 9947

Revised Code does not apply to contracts entered into under this 9948
division. In contracting with a community mental health agency, a 9949
board shall consider the cost effectiveness of services provided 9950
by that agency and the quality and continuity of care, and may 9951
review cost elements, including salary costs, of the services to 9952
be provided. A utilization review process shall be established as 9953
part of the contract for services entered into between a board and 9954
a community mental health agency. The board may establish this 9955
process in a way that is most effective and efficient in meeting 9956
local needs. Until July 1, 2012, a contract with a community 9957
mental health agency or facility, as defined in section 5111.023 9958
of the Revised Code, to provide services listed in division (B) of 9959
that section shall provide for the agency or facility to be paid 9960
in accordance with the contract entered into between the 9961
departments of job and family services and mental health under 9962
section 5111.91 of the Revised Code and any rules adopted under 9963
division (A) of section 5119.61 of the Revised Code. 9964

If either the board or a facility or community mental health 9965
agency with which the board contracts under division (A)(8)(a) of 9966
this section proposes not to renew the contract or proposes 9967
substantial changes in contract terms, the other party shall be 9968
given written notice at least one hundred twenty days before the 9969
expiration date of the contract. During the first sixty days of 9970
this one hundred twenty-day period, both parties shall attempt to 9971
resolve any dispute through good faith collaboration and 9972
negotiation in order to continue to provide services to persons in 9973
need. If the dispute has not been resolved sixty days before the 9974
expiration date of the contract, either party may ~~request that~~ 9975
notify the department of mental health of the unresolved dispute. 9976
The director may require both parties to submit the dispute to a 9977
third party with the cost to be shared by the board and the 9978
facility or community mental health agency. The third party shall 9979
issue to the board ~~and, the facility or agency, and the department~~ 9980

recommendations on how the dispute may be resolved twenty days 9981
prior to the expiration date of the contract, unless both parties 9982
agree to a time extension. The director shall adopt rules 9983
establishing the procedures of this dispute resolution process. 9984

(b) With the prior approval of the director of mental health, 9985
a board may operate a facility or provide a community mental 9986
health service as follows, if there is no other qualified private 9987
or public facility or community mental health agency that is 9988
immediately available and willing to operate such a facility or 9989
provide the service: 9990

(i) In an emergency situation, any board may operate a 9991
facility or provide a community mental health service in order to 9992
provide essential services for the duration of the emergency; 9993

(ii) In a service district with a population of at least one 9994
hundred thousand but less than five hundred thousand, a board may 9995
operate a facility or provide a community mental health service 9996
for no longer than one year; 9997

(iii) In a service district with a population of less than 9998
one hundred thousand, a board may operate a facility or provide a 9999
community mental health service for no longer than one year, 10000
except that such a board may operate a facility or provide a 10001
community mental health service for more than one year with the 10002
prior approval of the director and the prior approval of the board 10003
of county commissioners, or of a majority of the boards of county 10004
commissioners if the district is a joint-county district. 10005

The director shall not give a board approval to operate a 10006
facility or provide a community mental health service under 10007
division (A)(8)(b)(ii) or (iii) of this section unless the 10008
director determines that it is not feasible to have the department 10009
operate the facility or provide the service. 10010

The director shall not give a board approval to operate a 10011

facility or provide a community mental health service under 10012
division (A)(8)(b)(iii) of this section unless the director 10013
determines that the board will provide greater administrative 10014
efficiency and more or better services than would be available if 10015
the board contracted with a private or public facility or 10016
community mental health agency. 10017

The director shall not give a board approval to operate a 10018
facility previously operated by a person or other government 10019
entity unless the board has established to the director's 10020
satisfaction that the person or other government entity cannot 10021
effectively operate the facility or that the person or other 10022
government entity has requested the board to take over operation 10023
of the facility. The director shall not give a board approval to 10024
provide a community mental health service previously provided by a 10025
community mental health agency unless the board has established to 10026
the director's satisfaction that the agency cannot effectively 10027
provide the service or that the agency has requested the board 10028
take over providing the service. 10029

The director shall review and evaluate a board's operation of 10030
a facility and provision of community mental health service under 10031
division (A)(8)(b) of this section. 10032

Nothing in division (A)(8)(b) of this section authorizes a 10033
board to administer or direct the daily operation of any facility 10034
or community mental health agency, but a facility or agency may 10035
contract with a board to receive administrative services or staff 10036
direction from the board under the direction of the governing body 10037
of the facility or agency. 10038

(9) Approve fee schedules and related charges or adopt a unit 10039
cost schedule or other methods of payment for contract services 10040
provided by community mental health agencies in accordance with 10041
guidelines issued by the department as necessary to comply with 10042
state and federal laws pertaining to financial assistance; 10043

(10) Submit to the director and the county commissioners of	10044
the county or counties served by the board, and make available to	10045
the public, an annual report of the programs under the	10046
jurisdiction of the board, including a fiscal accounting;	10047
(11) Establish, to the extent resources are available, a	10048
community support system, which provides for treatment, support,	10049
and rehabilitation services and opportunities. The essential	10050
elements of the system include, but are not limited to, the	10051
following components in accordance with section 5119.06 of the	10052
Revised Code:	10053
(a) To locate persons in need of mental health services to	10054
inform them of available services and benefits mechanisms;	10055
(b) Assistance for clients to obtain services necessary to	10056
meet basic human needs for food, clothing, shelter, medical care,	10057
personal safety, and income;	10058
(c) Mental health care, including, but not limited to,	10059
outpatient, partial hospitalization, and, where appropriate,	10060
inpatient care;	10061
(d) Emergency services and crisis intervention;	10062
(e) Assistance for clients to obtain vocational services and	10063
opportunities for jobs;	10064
(f) The provision of services designed to develop social,	10065
community, and personal living skills;	10066
(g) Access to a wide range of housing and the provision of	10067
residential treatment and support;	10068
(h) Support, assistance, consultation, and education for	10069
families, friends, consumers of mental health services, and	10070
others;	10071
(i) Recognition and encouragement of families, friends,	10072
neighborhood networks, especially networks that include racial and	10073

ethnic minorities, churches, community organizations, and 10074
meaningful employment as natural supports for consumers of mental 10075
health services; 10076

(j) Grievance procedures and protection of the rights of 10077
consumers of mental health services; 10078

(k) Case management, which includes continual individualized 10079
assistance and advocacy to ensure that needed services are offered 10080
and procured. 10081

(12) Designate the treatment program, agency, or facility for 10082
each person involuntarily committed to the board pursuant to 10083
Chapter 5122. of the Revised Code and authorize payment for such 10084
treatment. The board shall provide the least restrictive and most 10085
appropriate alternative that is available for any person 10086
involuntarily committed to it and shall assure that the services 10087
listed in section 340.09 of the Revised Code are available to 10088
severely mentally disabled persons residing within its service 10089
district. The board shall establish the procedure for authorizing 10090
payment for services, which may include prior authorization in 10091
appropriate circumstances. The board may provide for services 10092
directly to a severely mentally disabled person when life or 10093
safety is endangered and when no community mental health agency is 10094
available to provide the service. 10095

(13) Establish a method for evaluating referrals for 10096
involuntary commitment and affidavits filed pursuant to section 10097
5122.11 of the Revised Code in order to assist the probate 10098
division of the court of common pleas in determining whether there 10099
is probable cause that a respondent is subject to involuntary 10100
hospitalization and what alternative treatment is available and 10101
appropriate, if any; 10102

(14) Ensure that apartments or rooms built, subsidized, 10103
renovated, rented, owned, or leased by the board or a community 10104

mental health agency have been approved as meeting minimum fire 10105
safety standards and that persons residing in the rooms or 10106
apartments are receiving appropriate and necessary services, 10107
including culturally relevant services, from a community mental 10108
health agency. This division does not apply to residential 10109
facilities licensed pursuant to section 5119.22 of the Revised 10110
Code. 10111

(15) Establish a mechanism for involvement of consumer 10112
recommendation and advice on matters pertaining to mental health 10113
services in the alcohol, drug addiction, and mental health service 10114
district. 10115

~~(16) Perform the duties under section 5119.88 of the Revised 10116
Code required by rules adopted under section 5119.61 of the 10117
Revised Code regarding referrals by the board or mental health 10118
agencies under contract with the board of individuals with mental 10119
illness or severe mental disability to adult care facilities and 10120
effective arrangements for ongoing mental health services for the 10121
individuals. The board is accountable in the manner specified in 10122
the rules for ensuring that the ongoing mental health services are 10123
effectively arranged for the individuals. 10124~~

(B) The board shall establish such rules, operating 10125
procedures, standards, and bylaws, and perform such other duties 10126
as may be necessary or proper to carry out the purposes of this 10127
chapter. 10128

(C) A board of alcohol, drug addiction, and mental health 10129
services may receive by gift, grant, devise, or bequest any 10130
moneys, lands, or property for the benefit of the purposes for 10131
which the board is established, and may hold and apply it 10132
according to the terms of the gift, grant, or bequest. All money 10133
received, including accrued interest, by gift, grant, or bequest 10134
shall be deposited in the treasury of the county, the treasurer of 10135
which is custodian of the alcohol, drug addiction, and mental 10136

health services funds to the credit of the board and shall be 10137
available for use by the board for purposes stated by the donor or 10138
grantor. 10139

(D) No board member or employee of a board of alcohol, drug 10140
addiction, and mental health services shall be liable for injury 10141
or damages caused by any action or inaction taken within the scope 10142
of the board member's official duties or the employee's 10143
employment, whether or not such action or inaction is expressly 10144
authorized by this section, section 340.033, or any other section 10145
of the Revised Code, unless such action or inaction constitutes 10146
willful or wanton misconduct. Chapter 2744. of the Revised Code 10147
applies to any action or inaction by a board member or employee of 10148
a board taken within the scope of the board member's official 10149
duties or employee's employment. For the purposes of this 10150
division, the conduct of a board member or employee shall not be 10151
considered willful or wanton misconduct if the board member or 10152
employee acted in good faith and in a manner that the board member 10153
or employee reasonably believed was in or was not opposed to the 10154
best interests of the board and, with respect to any criminal 10155
action or proceeding, had no reasonable cause to believe the 10156
conduct was unlawful. 10157

(E) The meetings held by any committee established by a board 10158
of alcohol, drug addiction, and mental health services shall be 10159
considered to be meetings of a public body subject to section 10160
121.22 of the Revised Code. 10161

Sec. 340.091. Each board of alcohol, drug addiction, and 10162
mental health services shall contract with a community mental 10163
health agency under division (A)(7)(a) of section 340.03 of the 10164
Revised Code for the agency to do all of the following in 10165
accordance with rules adopted under section 5119.61 of the Revised 10166
Code for an individual referred to the agency under division 10167

~~(C)~~(D)(2) of section 5119.69 of the Revised Code: 10168

(A) Assess the individual ~~to determine whether to recommend~~ 10169
~~that a residential state supplement administrative agency~~ 10170
~~designated under section 5119.69 of the Revised Code determine~~ 10171
and, if the agency determines that the environment in which the 10172
individual will be living while receiving residential state 10173
supplement payments is appropriate for the individual's needs ~~and,~~ 10174
~~if it determines the environment is appropriate, issue the a~~ 10175
recommendation to the referring residential state supplement 10176
administrative agency that the referring agency should conclude 10177
that the living environment is appropriate when it makes its 10178
determination regarding the appropriateness of the environment; 10179

(B) Provide ongoing monitoring to ensure that services 10180
provided under section 340.09 of the Revised Code are available to 10181
the individual; 10182

(C) Provide discharge planning to ensure the individual's 10183
earliest possible transition to a less restrictive environment. 10184

Sec. 505.37. (A) The board of township trustees may establish 10185
all necessary rules to guard against the occurrence of fires and 10186
to protect the property and lives of the citizens against damage 10187
and accidents, and may, with the approval of the specifications by 10188
the prosecuting attorney or, if the township has adopted limited 10189
home rule government under Chapter 504. of the Revised Code, with 10190
the approval of the specifications by the township's law director, 10191
purchase, lease, lease with an option to purchase, or otherwise 10192
provide any fire apparatus, mechanical resuscitators, or other 10193
equipment, appliances, materials, fire hydrants, and water supply 10194
for fire-fighting purposes that seems advisable to the board. The 10195
board shall provide for the care and maintenance of fire 10196
equipment, and, for these purposes, may purchase, lease, lease 10197
with an option to purchase, or construct and maintain necessary 10198

buildings, and it may establish and maintain lines of fire-alarm 10199
communications within the limits of the township. The board may 10200
employ one or more persons to maintain and operate fire-fighting 10201
equipment, or it may enter into an agreement with a volunteer fire 10202
company for the use and operation of fire-fighting equipment. The 10203
board may compensate the members of a volunteer fire company on 10204
any basis and in any amount that it considers equitable. 10205

10206

When the estimated cost to purchase fire apparatus, 10207
mechanical resuscitators, other equipment, appliances, materials, 10208
fire hydrants, buildings, or fire-alarm communications equipment 10209
or services exceeds fifty thousand dollars, the contract shall be 10210
let by competitive bidding. When competitive bidding is required, 10211
the board shall advertise once a week for not less than two 10212
consecutive weeks in a newspaper of general circulation within the 10213
township. The board may also cause notice to be inserted in trade 10214
papers or other publications designated by it or to be distributed 10215
by electronic means, including posting the notice on the board's 10216
internet web site. If the board posts the notice on its web site, 10217
it may eliminate the second notice otherwise required to be 10218
published in a newspaper of general circulation within the 10219
township, provided that the first notice published in such 10220
newspaper meets all of the following requirements: 10221

(1) It is published at least two weeks before the opening of 10222
bids. 10223

(2) It includes a statement that the notice is posted on the 10224
board's internet web site. 10225

(3) It includes the internet address of the board's internet 10226
web site. 10227

(4) It includes instructions describing how the notice may be 10228
accessed on the board's internet web site. 10229

The advertisement shall include the time, date, and place 10230
where the clerk of the township, or the clerk's designee, will 10231
read bids publicly. The time, date, and place of bid openings may 10232
be extended to a later date by the board of township trustees, 10233
provided that written or oral notice of the change shall be given 10234
to all persons who have received or requested specifications not 10235
later than ninety-six hours prior to the original time and date 10236
fixed for the opening. The board may reject all the bids or accept 10237
the lowest and best bid, provided that the successful bidder meets 10238
the requirements of section 153.54 of the Revised Code when the 10239
contract is for the construction, demolition, alteration, repair, 10240
or reconstruction of an improvement. 10241

(B) The boards of township trustees of any two or more 10242
townships, or the legislative authorities of any two or more 10243
political subdivisions, or any combination of these, may, through 10244
joint action, unite in the joint purchase, lease, lease with an 10245
option to purchase, maintenance, use, and operation of 10246
fire-fighting equipment, or for any other purpose designated in 10247
sections 505.37 to 505.42 of the Revised Code, and may prorate the 10248
expense of the joint action on any terms that are mutually agreed 10249
upon. 10250

(C) The board of township trustees of any township may, by 10251
resolution, whenever it is expedient and necessary to guard 10252
against the occurrence of fires or to protect the property and 10253
lives of the citizens against damages resulting from their 10254
occurrence, create a fire district of any portions of the township 10255
that it considers necessary. The board may purchase, lease, lease 10256
with an option to purchase, or otherwise provide any fire 10257
apparatus, appliances, materials, fire hydrants, and water supply 10258
for fire-fighting purposes, or may contract for the fire 10259
protection for the fire district as provided in section 9.60 of 10260
the Revised Code. The fire district so created shall be given a 10261

separate name by which it shall be known. 10262

Additional unincorporated territory of the township may be 10263
added to a fire district upon the board's adoption of a resolution 10264
authorizing the addition. A municipal corporation that is within 10265
or adjoining the township may be added to a fire district upon the 10266
board's adoption of a resolution authorizing the addition and the 10267
municipal legislative authority's adoption of a resolution or 10268
ordinance requesting the addition of the municipal corporation to 10269
the fire district. 10270

If the township fire district imposes a tax, additional 10271
unincorporated territory of the township or a municipal 10272
corporation that is within or adjoining the township shall become 10273
part of the fire district only after all of the following have 10274
occurred: 10275

(1) Adoption by the board of township trustees of a 10276
resolution approving the expansion of the territorial limits of 10277
the district and, if the resolution proposes to add a municipal 10278
corporation, adoption by the municipal legislative authority of a 10279
resolution or ordinance requesting the addition of the municipal 10280
corporation to the district; 10281

(2) Adoption by the board of township trustees of a 10282
resolution recommending the extension of the tax to the additional 10283
territory; 10284

(3) Approval of the tax by the electors of the territory 10285
proposed for addition to the district. 10286

Each resolution of the board adopted under division (C)(2) of 10287
this section shall state the name of the fire district, a 10288
description of the territory to be added, and the rate and 10289
termination date of the tax, which shall be the rate and 10290
termination date of the tax currently in effect in the fire 10291
district. 10292

The board of trustees shall certify each resolution adopted under division (C)(2) of this section to the board of elections in accordance with section 5705.19 of the Revised Code. The election required under division (C)(3) of this section shall be held, canvassed, and certified in the manner provided for the submission of tax levies under section 5705.25 of the Revised Code, except that the question appearing on the ballot shall read:

"Shall the territory within
(description of the proposed territory to be added) be added to (name) fire district, and a property tax at a rate of taxation not exceeding (here insert tax rate) be in effect for (here insert the number of years the tax is to be in effect or "a continuing period of time," as applicable)?"

If the question is approved by at least a majority of the electors voting on it, the joinder shall be effective as of the first day of July of the year following approval, and on that date, the township fire district tax shall be extended to the taxable property within the territory that has been added. If the territory that has been added is a municipal corporation and if it had adopted a tax levy for fire purposes, the levy is terminated on the effective date of the joinder.

Any municipal corporation may withdraw from a township fire district created under division (C) of this section by the adoption by the municipal legislative authority of a resolution or ordinance ordering withdrawal. On the first day of July of the year following the adoption of the resolution or ordinance of withdrawal, the municipal corporation withdrawing ceases to be a part of the district, and the power of the fire district to levy a tax upon taxable property in the withdrawing municipal corporation terminates, except that the fire district shall continue to levy and collect taxes for the payment of indebtedness within the

territory of the fire district as it was composed at the time the 10325
indebtedness was incurred. 10326

Upon the withdrawal of any municipal corporation from a 10327
township fire district created under division (C) of this section, 10328
the county auditor shall ascertain, apportion, and order a 10329
division of the funds on hand, moneys and taxes in the process of 10330
collection except for taxes levied for the payment of 10331
indebtedness, credits, and real and personal property, either in 10332
money or in kind, on the basis of the valuation of the respective 10333
tax duplicates of the withdrawing municipal corporation and the 10334
remaining territory of the fire district. 10335

A board of township trustees may remove unincorporated 10336
territory of the township from the fire district upon the adoption 10337
of a resolution authorizing the removal. On the first day of July 10338
of the year following the adoption of the resolution, the 10339
unincorporated township territory described in the resolution 10340
ceases to be a part of the district, and the power of the fire 10341
district to levy a tax upon taxable property in that territory 10342
terminates, except that the fire district shall continue to levy 10343
and collect taxes for the payment of indebtedness within the 10344
territory of the fire district as it was composed at the time the 10345
indebtedness was incurred. 10346

(D) The board of township trustees of any township, the board 10347
of fire district trustees of a fire district created under section 10348
505.371 of the Revised Code, or the legislative authority of any 10349
municipal corporation may purchase, lease, or lease with an option 10350
to purchase the necessary fire-fighting equipment, buildings, and 10351
sites for the township, fire district, or municipal corporation 10352
and issue securities for that purpose with maximum maturities as 10353
provided in section 133.20 of the Revised Code. The board of 10354
township trustees, board of fire district trustees, or legislative 10355
authority may also construct any buildings necessary to house 10356

fire-fighting equipment and issue securities for that purpose with 10357
maximum maturities as provided in section 133.20 of the Revised 10358
Code. 10359

The board of township trustees, board of fire district 10360
trustees, or legislative authority may issue the securities of the 10361
township, fire district, or municipal corporation, signed by the 10362
board or designated officer of the municipal corporation and 10363
attested by the signature of the township fiscal officer, fire 10364
district clerk, or municipal clerk, covering any deferred payments 10365
and payable at the times provided, which securities shall bear 10366
interest not to exceed the rate determined as provided in section 10367
9.95 of the Revised Code, and shall not be subject to Chapter 133. 10368
of the Revised Code. The legislation authorizing the issuance of 10369
the securities shall provide for levying and collecting annually 10370
by taxation, amounts sufficient to pay the interest on and 10371
principal of the securities. The securities shall be offered for 10372
sale on the open market or given to the vendor or contractor if no 10373
sale is made. 10374

Section 505.40 of the Revised Code does not apply to any 10375
securities issued, or any lease with an option to purchase entered 10376
into, in accordance with this division. 10377

(E) A board of township trustees of any township or a board 10378
of fire district trustees of a fire district created under section 10379
505.371 of the Revised Code may purchase a policy or policies of 10380
liability insurance for the officers, employees, and appointees of 10381
the fire department, fire district, or joint fire district 10382
governed by the board that includes personal injury liability 10383
coverage as to the civil liability of those officers, employees, 10384
and appointees for false arrest, detention, or imprisonment, 10385
malicious prosecution, libel, slander, defamation or other 10386
violation of the right of privacy, wrongful entry or eviction, or 10387
other invasion of the right of private occupancy, arising out of 10388

the performance of their duties. 10389

When a board of township trustees cannot, by deed of gift or 10390
by purchase and upon terms it considers reasonable, procure land 10391
for a township fire station that is needed in order to respond in 10392
reasonable time to a fire or medical emergency, the board may 10393
appropriate land for that purpose under sections 163.01 to 163.22 10394
of the Revised Code. If it is necessary to acquire additional 10395
adjacent land for enlarging or improving the fire station, the 10396
board may purchase, appropriate, or accept a deed of gift for the 10397
land for these purposes. 10398

(F) As used in this division, "emergency medical service 10399
organization" has the same meaning as in section 4766.01 of the 10400
Revised Code. 10401

A board of township trustees, by adoption of an appropriate 10402
resolution, may choose to have the ~~Ohio~~ state board of emergency 10403
medical, fire, and transportation board services license any 10404
emergency medical service organization it operates. If the board 10405
adopts such a resolution, Chapter 4766. of the Revised Code, 10406
except for sections 4766.06 and 4766.99 of the Revised Code, 10407
applies to the organization. All rules adopted under the 10408
applicable sections of that chapter also apply to the 10409
organization. A board of township trustees, by adoption of an 10410
appropriate resolution, may remove its emergency medical service 10411
organization from the jurisdiction of the ~~Ohio~~ state board of 10412
emergency medical, fire, and transportation board services. 10413

Sec. 505.375. (A)(1)(a) The boards of township trustees of 10414
one or more townships and the legislative authorities of one or 10415
more municipal corporations, or the legislative authorities of two 10416
or more municipal corporations, or the boards of township trustees 10417
of two or more townships, may negotiate an agreement to form a 10418
fire and ambulance district for the delivery of both fire and 10419

ambulance services. The agreement shall be ratified by the 10420
adoption of a joint resolution by a majority of the members of 10421
each board of township trustees involved and a majority of the 10422
members of the legislative authority of each municipal corporation 10423
involved. The joint resolution shall specify a date on which the 10424
fire and ambulance district shall come into being. 10425

(b) If a joint fire district created under section 505.371 of 10426
the Revised Code or a joint ambulance district created under 10427
section 505.71 of the Revised Code is dissolved to facilitate the 10428
creation of a fire and ambulance district under division (A)(1)(a) 10429
of this section, the townships and municipal corporations forming 10430
the fire and ambulance district may transfer to the fire and 10431
ambulance district any of the funds on hand, moneys and taxes in 10432
the process of collection, credits, and real and personal property 10433
apportioned to them under division (D) of section 505.371 of the 10434
Revised Code or section 505.71 of the Revised Code, as applicable, 10435
for use by the fire and ambulance district in accordance with this 10436
section. 10437

(2)(a) The board of trustees of a joint ambulance district 10438
created under section 505.71 of the Revised Code and the board of 10439
fire district trustees of a joint fire district created under 10440
section 505.371 of the Revised Code may negotiate to combine their 10441
two joint districts into a single fire and ambulance district for 10442
the delivery of both fire and ambulance services, if the 10443
geographic area covered by the combining joint districts is 10444
exactly the same. Both boards shall adopt a joint resolution 10445
ratifying the agreement and setting a date on which the fire and 10446
ambulance district shall come into being. 10447

(b) On that date, the joint fire district and the joint 10448
ambulance district shall cease to exist, and the power of each to 10449
levy a tax upon taxable property shall terminate, except that any 10450

levy of a tax for the payment of indebtedness within the territory 10451
of the joint fire or joint ambulance district as it was composed 10452
at the time the indebtedness was incurred shall continue to be 10453
collected by the successor fire and ambulance district if the 10454
indebtedness remains unpaid. All funds and other property of the 10455
joint districts shall become the property of the fire and 10456
ambulance district, unless otherwise provided in the negotiated 10457
agreement. The agreement shall provide for the settlement of all 10458
debts and obligations of the joint districts. 10459

(B)(1) The governing body of a fire and ambulance district 10460
created under division (A)(1) or (2) of this section shall be a 10461
board of trustees of at least three but no more than nine members, 10462
appointed as provided in the agreement creating the district. 10463
Members of the board may be compensated at a rate not to exceed 10464
thirty dollars per meeting for not more than fifteen meetings per 10465
year, and may be reimbursed for all necessary expenses incurred, 10466
as provided in the agreement creating the district. 10467

(2) The board shall employ a clerk and other employees as it 10468
considers best, including a fire chief or fire prevention 10469
officers, and shall fix their compensation. Neither this section 10470
nor any other section of the Revised Code requires, or shall be 10471
construed to require, that the fire chief of a fire and ambulance 10472
district be a resident of the district. 10473

Before entering upon the duties of office, the clerk shall 10474
execute a bond, in the amount and with surety to be approved by 10475
the board, payable to the state, conditioned for the faithful 10476
performance of all of the clerk's official duties. The clerk shall 10477
deposit the bond with the presiding officer of the board, who 10478
shall file a copy of it, certified by the presiding officer, with 10479
the county auditor of the county containing the most territory in 10480
the district. 10481

The board also shall provide for the appointment of a fiscal 10482

officer for the district and may enter into agreements with 10483
volunteer fire companies for the use and operation of 10484
fire-fighting equipment. Volunteer firefighters acting under such 10485
an agreement are subject to the requirements for volunteer 10486
firefighters set forth in division (A) of section 505.38 of the 10487
Revised Code. 10488

(3) Employees of the district shall not be removed from 10489
office except as provided by sections 733.35 to 733.39 of the 10490
Revised Code, except that, to initiate removal proceedings, the 10491
board shall designate a private citizen or, if the employee is 10492
employed as a firefighter, the board may designate the fire chief, 10493
to investigate, conduct the proceedings, and prepare the necessary 10494
charges in conformity with those sections, and except that the 10495
board shall perform the functions and duties specified for the 10496
municipal legislative authority under those sections. The board 10497
may pay reasonable compensation to any private citizen hired for 10498
services rendered in the matter. 10499

(4) No person shall be appointed as a permanent full-time 10500
paid member of the district whose duties include fire fighting, or 10501
be appointed as a volunteer firefighter, unless that person has 10502
received a certificate issued under former section 3303.07 or 10503
section 4765.55 of the Revised Code evidencing satisfactory 10504
completion of a firefighter training program. The board may send 10505
its officers and firefighters to schools of instruction designed 10506
to promote the efficiency of firefighters and, if authorized in 10507
advance, may pay their necessary expenses from the funds used for 10508
the maintenance and operation of the district. 10509

The board may choose, by adoption of an appropriate 10510
resolution, to have the ~~Ohio~~ state board of emergency medical, 10511
fire, and transportation board services license any emergency 10512
medical service organization it operates. If the board adopts such 10513
a resolution, Chapter 4766. of the Revised Code, except for 10514

sections 4766.06 and 4766.99 of the Revised Code, applies to the 10515
organization. All rules adopted under the applicable sections of 10516
that chapter also apply to the organization. The board may remove, 10517
by resolution, its emergency medical service organization from the 10518
jurisdiction of the ~~Ohio~~ state board of emergency medical, fire, 10519
and transportation board services. 10520

(C) The board of trustees of a fire and ambulance district 10521
created under division (A)(1) or (2) of this section may exercise 10522
the following powers: 10523

(1) Purchase or otherwise provide any fire apparatus, 10524
mechanical resuscitators, or other fire or ambulance equipment, 10525
appliances, or materials; fire hydrants; and water supply for 10526
firefighting purposes that seems advisable to the board; 10527

(2) Provide for the care and maintenance of equipment and, 10528
for that purpose, purchase, lease, lease with an option to 10529
purchase, or construct and maintain necessary buildings; 10530

(3) Establish and maintain lines of fire-alarm communications 10531
within the limits of the district; 10532

(4) Appropriate land for a fire station or medical emergency 10533
unit needed in order to respond in reasonable time to a fire or 10534
medical emergency, in accordance with Chapter 163. of the Revised 10535
Code; 10536

(5) Purchase, appropriate, or accept a deed or gift of land 10537
to enlarge or improve a fire station or medical emergency unit; 10538

(6) Purchase, lease, lease with an option to purchase, 10539
maintain, and use all materials, equipment, vehicles, buildings, 10540
and land necessary to perform its duties; 10541

(7) Contract for a period not to exceed three years with one 10542
or more townships, municipal corporations, counties, joint fire 10543
districts, joint ambulance districts, governmental agencies, 10544

nonprofit corporations, or private ambulance owners located either 10545
within or outside the state, to furnish or receive ambulance 10546
services or emergency medical services within the several 10547
territories of the contracting parties, if the contract is first 10548
authorized by all boards of trustees and legislative authorities 10549
concerned; 10550

(8) Establish reasonable charges for the use of ambulance or 10551
emergency medical services under the same conditions under which a 10552
board of fire district trustees may establish those charges under 10553
section 505.371 of the Revised Code; 10554

(9) Establish all necessary rules to guard against the 10555
occurrence of fires and to protect property and lives against 10556
damage and accidents; 10557

(10) Adopt a standard code pertaining to fire, fire hazards, 10558
and fire prevention prepared and promulgated by the state or by a 10559
public or private organization that publishes a model or standard 10560
code; 10561

(11) Provide for charges for false alarms at commercial 10562
establishments in the same manner as joint fire districts are 10563
authorized to do under section 505.391 of the Revised Code; 10564

(12) Issue bonds and other evidences of indebtedness, subject 10565
to Chapter 133. of the Revised Code, but only after approval by a 10566
vote of the electors of the district as provided by section 133.18 10567
of the Revised Code; 10568

(13) To provide the services and equipment it considers 10569
necessary, levy a sufficient tax, subject to Chapter 5705. of the 10570
Revised Code, on all the taxable property in the district. 10571

(D) Any municipal corporation or township may join an 10572
existing fire and ambulance district, whether created under 10573
division (A)(1) or (2) of this section, by its legislative 10574
authority's adoption of a resolution requesting the membership and 10575

upon approval of the board of trustees of the district. Any 10576
municipal corporation or township may withdraw from a district, 10577
whether created under division (A)(1) or (2) of this section, by 10578
its legislative authority's adoption of a resolution ordering 10579
withdrawal. Upon its withdrawal, the municipal corporation or 10580
township ceases to be a part of the district, and the district's 10581
power to levy a tax on taxable property in the withdrawing 10582
township or municipal corporation terminates, except that the 10583
district shall continue to levy and collect taxes for the payment 10584
of indebtedness within the territory of the district as it was 10585
composed at the time the indebtedness was incurred. 10586

Upon the withdrawal of any township or municipal corporation 10587
from a district, the county auditor of the county containing the 10588
most territory in the district shall ascertain, apportion, and 10589
order a division of the funds on hand, including funds in the 10590
ambulance and emergency medical services fund, moneys and taxes in 10591
the process of collection, except for taxes levied for the payment 10592
of indebtedness, credits, and real and personal property on the 10593
basis of the valuation of the respective tax duplicates of the 10594
withdrawing municipal corporation or township and the remaining 10595
territory of the district. 10596

(E) As used in this section: 10597

(1) "Governmental agency" includes all departments, boards, 10598
offices, commissions, agencies, colleges, universities, 10599
institutions, and other instrumentalities of this or another 10600
state. 10601

(2) "Emergency medical service organization" has the same 10602
meaning as in section 4766.01 of the Revised Code. 10603

Sec. 505.44. As used in this section: 10604

(A) "Emergency medical service organization" has the same 10605

meaning as in section 4765.01 of the Revised Code. 10606

(B) "State agency" means all departments, boards, offices, 10607
commissions, agencies, colleges, universities, institutions, and 10608
other instrumentalities of this or another state. 10609

In order to obtain the services of ambulance service 10610
organizations, to obtain additional services from ambulance 10611
service organizations in times of emergency, to obtain the 10612
services of emergency medical service organizations, or, if the 10613
township is located in a county with a population of forty 10614
thousand or less, to obtain the services of nonemergency patient 10615
transport service organizations, a township may enter into a 10616
contract with one or more state agencies, townships, municipal 10617
corporations, counties, nonprofit corporations, joint emergency 10618
medical services districts, fire and ambulance districts, or 10619
private ambulance owners, regardless of whether such state 10620
agencies, townships, municipal corporations, counties, nonprofit 10621
corporations, joint emergency medical services districts, fire and 10622
ambulance districts, or private ambulance owners are located 10623
within or outside the state, upon such terms as are agreed to by 10624
them, to furnish or receive services from ambulance or emergency 10625
medical service organizations or, if the township is located in a 10626
county with a population of forty thousand or less, to furnish or 10627
receive services from nonemergency patient transport service 10628
organizations, or may enter into a contract for the interchange of 10629
services from ambulance or emergency medical service organizations 10630
or, if the township is located in a county with a population of 10631
forty thousand or less, the interchange of services from 10632
nonemergency patient transport service organizations, within the 10633
several territories of the contracting parties, if the contract is 10634
first authorized by the respective boards of township trustees, 10635
the other legislative bodies, or the officer or body authorized to 10636
contract on behalf of the state agency. Such contracts shall not 10637

be entered into with a state agency or nonprofit corporation that 10638
receives more than half of its operating funds from governmental 10639
entities with the intention of directly competing with the 10640
operation of other ambulance, emergency medical, or nonemergency 10641
patient transport service organizations in the township unless the 10642
state agency or nonprofit corporation is awarded the contract 10643
after submitting the lowest and best bid to the board of township 10644
trustees. 10645

The contract may provide for compensation upon such terms as 10646
the parties may agree. 10647

Any township wishing to commence providing or wishing to 10648
enter into a contract for the first time to furnish or obtain 10649
services from nonemergency patient transport service organizations 10650
on or after March 1, 1993, including a township in which a private 10651
provider has been providing the service, shall demonstrate the 10652
need for public funding for the service to, and obtain approval 10653
from, the state board of emergency medical, fire, and 10654
transportation services or its immediate successor board prior to 10655
the establishment of a township-operated or township-funded 10656
service. 10657

Sec. 505.72. (A) The board of trustees of a joint ambulance 10658
district shall provide for the employment of such employees as it 10659
considers best, and shall fix their compensation. Such employees 10660
shall continue in office until removed as provided by sections 10661
733.35 to 733.39 of the Revised Code. To initiate removal 10662
proceedings, and for such purpose, the board shall designate a 10663
private citizen to investigate the conduct and prepare the 10664
necessary charges in conformity with sections 733.35 to 733.39 of 10665
the Revised Code. The board may pay reasonable compensation to 10666
such person for the person's services. 10667

In case of the removal of an employee of the district, an 10668

appeal may be had from the decision of the board to the court of 10669
common pleas of the county in which such district, or part of it, 10670
is situated, to determine the sufficiency of the cause of removal. 10671
Such appeal from the findings of the board shall be taken within 10672
ten days. 10673

(B) As used in this division, "emergency medical service 10674
organization" has the same meaning as in section 4765.01 of the 10675
Revised Code. 10676

(1) In order to obtain the services of ambulance service 10677
organizations, to obtain additional services from ambulance 10678
service organizations in times of emergency, or to obtain the 10679
services of emergency medical service organizations, a district 10680
may enter into a contract, for a period not to exceed three years, 10681
with one or more townships, municipal corporations, joint fire 10682
districts, nonprofit corporations, any other governmental unit 10683
that provides ambulance services or emergency medical services, or 10684
with private ambulance owners, regardless of whether such 10685
townships, municipal corporations, joint fire districts, nonprofit 10686
corporations, governmental unit, or private ambulance owners are 10687
located within or without this state, upon such terms as are 10688
agreed to, to furnish or receive services from ambulance or 10689
emergency medical service organizations or the interchange of 10690
services from ambulance or emergency medical service organizations 10691
within the several territories of the contracting subdivisions, if 10692
such contract is first authorized by all boards of trustees and 10693
legislative authorities concerned. 10694

The contract may provide for a fixed annual charge to be paid 10695
at the times agreed upon and stipulated in the contract, or for 10696
compensation based upon a stipulated price for each run, call, or 10697
emergency, or the elapsed time of service required in such run, 10698
call, or emergency, or any combination thereof. 10699

(2) Expenditures of a district for the services of ambulance 10700

service organizations or emergency medical service organizations, 10701
whether pursuant to contract or otherwise, are lawful 10702
expenditures, regardless of whether the district or the party with 10703
which it contracts charges additional fees to users of the 10704
services. 10705

(3) A district's board of trustees, by adoption of an 10706
appropriate resolution, may choose to have the ~~Ohio~~ state board of 10707
emergency medical, fire, and transportation board services license 10708
any emergency medical service organization the district operates. 10709
If a board adopts such a resolution, Chapter 4766. of the Revised 10710
Code, except for sections 4766.06 and 4766.99 of the Revised Code, 10711
applies to the district emergency medical service organization. 10712
All rules adopted under the applicable sections of that chapter 10713
also apply to the organization. A board, by adoption of an 10714
appropriate resolution, may remove the district emergency medical 10715
service organization from the jurisdiction of the ~~Ohio~~ state board 10716
of emergency medical, fire, and transportation board services. 10717

(C) Ambulance services or emergency medical services rendered 10718
for a joint ambulance district under this section and section 10719
505.71 of the Revised Code shall be deemed services of the 10720
district. These sections do not authorize suits against a district 10721
or any township or municipal corporation providing or receiving, 10722
or contracting to provide or receive, such services under these 10723
sections for damages for injury or loss to persons or property or 10724
for wrongful death caused by persons providing such services. 10725

Sec. 901.54. ~~(A)~~ There is hereby created the office of 10726
farmland preservation within the department of agriculture. The 10727
office shall do all of the following: 10728

~~(1)~~(A) Prepare guidelines and criteria for use in the 10729
development of comprehensive local land use plans that encourage 10730
the efficient use of public infrastructure and the preservation of 10731

farmland;	10732
(2)(B) Establish a farmland preservation program to coordinate and assist local farmland preservation initiatives;	10733 10734
(3) Administer the pilot farmland preservation fund established in division (B) of this section;	10735 10736
(4)(C) Educate existing agencies and organizations on the importance of farmland preservation and on the significance of agriculture and agribusiness to this state's economy;	10737 10738 10739
(5)(D) Serve as a liaison with other farmland preservation entities operating on a state, regional, or national level;	10740 10741
(6)(E) Prepare an inventory of farmland within this state to monitor the development of lands within this state having prime soils or unique microclimates.	10742 10743 10744
(B) There is hereby created in the state treasury the pilot farmland preservation fund consisting of moneys received by the office of farmland preservation for the purposes of the fund. The fund shall be administered by the office of farmland preservation. Moneys in the fund shall be used to leverage or match other farmland preservation funds provided from federal, local, or private sources.	10745 10746 10747 10748 10749 10750 10751
Sec. 955.16. (A) Dogs that have been seized by the county dog warden and impounded shall be kept, housed, and fed for three days for the purpose of redemption, as provided by section 955.18 of the Revised Code, unless any of the following applies:	10753 10754 10755 10756
(1) Immediate humane destruction of the dog is necessary because of obvious disease or injury. If the diseased or injured dog is registered, as determined from the current year's registration list maintained by the warden and the county auditor of the county where the dog is registered, the necessity of destroying the dog shall be certified by a licensed veterinarian	10757 10758 10759 10760 10761 10762

or a registered veterinary technician. If the dog is not 10763
registered, the decision to destroy it shall be made by the 10764
warden. 10765

(2) The dog is currently registered on the registration list 10766
maintained by the warden and the auditor of the county where the 10767
dog is registered and the attempts to notify the owner, keeper, or 10768
harborer under section 955.12 of the Revised Code have failed, in 10769
which case the dog shall be kept, housed, and fed for fourteen 10770
days for the purpose of redemption. 10771

(3) The warden has contacted the owner, keeper, or harborer 10772
under section 955.12 of the Revised Code, and the owner, keeper, 10773
or harborer has requested that the dog remain in the pound or 10774
animal shelter until the owner, harborer, or keeper redeems the 10775
dog. The time for such redemption shall be not more than 10776
forty-eight hours following the end of the appropriate redemption 10777
period. 10778

At any time after such periods of redemption, any dog not 10779
redeemed shall be donated to any nonprofit special agency that is 10780
engaged in the training of any type of assistance dogs and that 10781
requests that the dog be donated to it. Any dog not redeemed that 10782
is not requested by such an agency may be sold, except that no dog 10783
sold to a person other than a nonprofit teaching or research 10784
institution or organization of the type described in division (B) 10785
of this section shall be discharged from the pound or animal 10786
shelter until the animal has been registered and furnished with a 10787
valid registration tag. 10788

(B) Any dog that is not redeemed within the applicable period 10789
as specified in this section or section 955.12 of the Revised Code 10790
from the time notice is mailed to its owner, keeper, or harborer 10791
or is posted at the pound or animal shelter, as required by 10792
section 955.12 of the Revised Code, and that is not required to be 10793
donated to a nonprofit special agency engaged in the training of 10794

any type of assistance dogs may, upon payment to the dog warden or 10795
poundkeeper of the sum of three dollars, be sold to any nonprofit 10796
Ohio institution or organization that is certified by the ~~Ohio~~ 10797
~~public director of health council~~ as being engaged in teaching or 10798
research concerning the prevention and treatment of diseases of 10799
human beings or animals. Any dog that is donated to a nonprofit 10800
special agency engaged in the training of any type of assistance 10801
dogs in accordance with division (A) of this section and any dog 10802
that is sold to any nonprofit teaching or research institution or 10803
organization shall be discharged from the pound or animal shelter 10804
without registration and may be kept by the agency or by the 10805
institution or organization without registration so long as the 10806
dog is being trained, or is being used for teaching and research 10807
purposes. 10808

Any institution or organization certified by the ~~Ohio public~~ 10809
~~health council~~ director that obtains dogs for teaching and 10810
research purposes pursuant to this section shall, at all 10811
reasonable times, make the dogs available for inspection by agents 10812
of the Ohio humane society, appointed pursuant to section 1717.04 10813
of the Revised Code, and agents of county humane societies, 10814
appointed pursuant to section 1717.06 of the Revised Code, in 10815
order that the agents may prevent the perpetration of any act of 10816
cruelty, as defined in section 1717.01 of the Revised Code, to the 10817
dogs. 10818

(C) Any dog that the dog warden or poundkeeper is unable to 10819
dispose of, in the manner provided by this section and section 10820
955.18 of the Revised Code, may be humanely destroyed, except that 10821
no dog shall be destroyed until twenty-four hours after it has 10822
been offered to a nonprofit teaching or research institution or 10823
organization, as provided in this section, that has made a request 10824
for dogs to the dog warden or poundkeeper. 10825

(D) An owner of a dog that is wearing a valid registration 10826

tag who presents the dog to the dog warden or poundkeeper may 10827
specify in writing that the dog shall not be offered to a 10828
nonprofit teaching or research institution or organization, as 10829
provided in this section. 10830

(E) A record of all dogs impounded, the disposition of the 10831
same, the owner's name and address, if known, and a statement of 10832
costs assessed against the dogs shall be kept by the poundkeeper, 10833
and the poundkeeper shall furnish a transcript thereof to the 10834
county treasurer quarterly. 10835

A record of all dogs received and the source that supplied 10836
them shall be kept, for a period of three years from the date of 10837
acquiring the dogs, by all institutions or organizations engaged 10838
in teaching or research concerning the prevention and treatment of 10839
diseases of human beings or animals. 10840

(F) No person shall destroy any dog by the use of a high 10841
altitude decompression chamber or by any method other than a 10842
method that immediately and painlessly renders the dog initially 10843
unconscious and subsequently dead. 10844

Sec. 955.26. Whenever, in the judgment of the director of 10845
health, any city or general health district board of health, or 10846
persons performing the duties of a board of health, rabies is 10847
prevalent, the director of health, the board, or those persons 10848
shall declare a quarantine of all dogs in the health district or 10849
in a part of it. During the quarantine, the owner, keeper, or 10850
harborer of any dog shall keep it confined on the premises of the 10851
owner, keeper, or harborer, or in a suitable pound or kennel, at 10852
the expense of the owner, keeper, or harborer, except that a dog 10853
may be permitted to leave the premises of its owner, keeper, or 10854
harborer if it is under leash or under the control of a 10855
responsible person. The quarantine order shall be considered an 10856
emergency and need not be published. 10857

When the quarantine has been declared, the director of health, the board, or those persons may require vaccination for rabies of all dogs within the health district or part of it. Proof of rabies vaccination within a satisfactory period shall be demonstrated to the county auditor before any registration is issued under section 955.01 of the Revised Code for any dog that is required to be vaccinated.

The ~~public health council~~ director shall determine appropriate methods of rabies vaccination and satisfactory periods for purposes of quarantines under this section.

When a quarantine of dogs has been declared in any health district or part of a health district, the county dog warden and all other persons having the authority of police officers shall assist the health authorities in enforcing the quarantine order. When rabies vaccination has been declared compulsory in any health district or part of a health district, the dog warden shall assist the health authorities in enforcing the vaccination order.

Notwithstanding the provisions of this section, a city or general health district board of health may make orders pursuant to sections 3709.20 and 3709.21 of the Revised Code requiring the vaccination of dogs.

Sec. 991.02. (A) There is hereby created the Ohio expositions commission, which shall consist of the following ~~thirteen~~ fourteen members: nine members appointed by the governor with the advice and consent of the senate; the director of development, the director of natural resources, and the director of agriculture, or their designated representatives, who shall be ex officio members with voting rights of ~~such~~ the commission; and the ~~chairman~~ chairperson of the standing committee in the house of representatives to which matters dealing with agriculture are generally referred and the ~~chairman~~ chairperson of the standing

committee in the senate to which matters dealing with agriculture 10889
are generally referred, who shall be nonvoting members. If the 10890
senate is not in session, recess appointments shall be made by the 10891
governor. 10892

(B) Of the nine members of the commission appointed by the 10893
governor, not more than five shall be from one political party, at 10894
least three members shall receive the major portion of their 10895
income from farming, and at least one member shall, at the time of 10896
~~his~~ appointment, be a member of the board of directors of an 10897
agricultural society ~~which~~ that was organized in compliance with 10898
section 1711.01 or 1711.02 of the Revised Code. Terms of office 10899
shall be for six years, commencing on the second day of December 10900
and ending on the first day of December. Each member shall hold 10901
office from the date of ~~his~~ appointment until the end of the term 10902
for which ~~he~~ the member was appointed. Any member appointed to 10903
fill a vacancy occurring prior to the expiration of the term for 10904
which ~~his~~ the member's predecessor was appointed shall hold office 10905
for the remainder of ~~such~~ that term. Any member shall continue in 10906
office subsequent to the expiration date of ~~his~~ the member's term 10907
until ~~his~~ the member's successor takes office, or until a period 10908
of sixty days has elapsed, whichever occurs first. 10909

The term of each nonvoting, legislative member of the 10910
commission shall be for two years or until the end of the member's 10911
legislative term, whichever occurs first. 10912

(C) The commission shall annually, during the month of 10913
December, select from among its members a ~~chairman~~ chairperson, a 10914
~~vice-chairman~~ vice-chairperson, who in the absence of the ~~chairman~~ 10915
chairperson shall carry out ~~his~~ the chairperson's duties, and a 10916
secretary, who may be a member or employee of the commission, to 10917
record the minutes of its meetings and to carry out such other 10918
duties as may be assigned by the commission, its ~~chairman~~ 10919
chairperson, or ~~vice-chairman~~ its vice-chairperson. 10920

(D) The director of agriculture, the director of natural resources, and the director of development, or their designated representatives, and the two legislators appointed to the commission, as members of the commission shall serve without compensation. 10921
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(E) Each of the members of the commission appointed by the governor shall be paid the rate established pursuant to division (J) of section 124.15 of the Revised Code. All members of the commission are entitled to their actual and necessary expenses incurred in the performance of their duties as such members, payable from the appropriations for the commission. 10926
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(F) The commission shall hold at least one regular meeting in each quarter of each calendar year, and shall keep a record of its proceedings, which shall be open to the public for inspection. Special meetings may be called by the ~~chairman~~ chairperson and shall be called by ~~him~~ the chairperson upon receipt of a written request therefor signed by two or more members of the commission. Written notice of the time and place of each meeting shall be sent to each member of the commission. Six of the voting members of the commission shall constitute a quorum. 10932
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(G) The commission shall employ and prescribe the powers and duties of a general manager who shall serve in the unclassified civil service at a salary fixed pursuant to section 124.14 of the Revised Code. The general manager may employ such assistant managers as ~~he~~ the general manager and the commission may approve. At no time shall such assistant managers exceed four in number, one of whom shall be appointed in the classified civil service. The general manager may, subject to the approval of the commission, employ a fiscal officer and such other officers, employees, and consultants with such powers and duties as are necessary to carry out ~~sections 991.01 to 991.07 of the Revised Code~~ this chapter. With the approval of the commission and in 10941
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order to implement this chapter, the general manager may employ 10953
and fix the compensation of seasonal employees; these employees 10954
shall be in the unclassified civil service, and the overtime pay 10955
requirements of section 124.18 of the Revised Code do not apply to 10956
them. The general manager shall be considered the appointing 10957
authority of the commission for purposes of Chapter 124. of the 10958
Revised Code. 10959

(H) The governor may remove any appointed voting member of 10960
the commission at any time for inefficiency, neglect of duty, or 10961
malfeasance in office. 10962

Sec. 1121.23. Whenever the approval of the superintendent of 10963
financial institutions is required under Chapters 1101. to 1127. 10964
of the Revised Code, or under an order or supervisory action 10965
issued or taken under those chapters, for a person to serve as an 10966
organizer, incorporator, director, executive officer, or 10967
controlling shareholder of a bank, or to otherwise have a 10968
substantial interest in or participate in the management of a 10969
bank, the superintendent shall request the superintendent of the 10970
bureau of criminal identification and investigation, or a vendor 10971
approved by the bureau, to conduct a criminal records check based 10972
on the person's fingerprints in accordance with ~~division (A)(14)~~ 10973
~~of~~ section 109.572 of the Revised Code. The superintendent of 10974
financial institutions shall request that criminal record 10975
information from the federal bureau of investigation be obtained 10976
as part of the criminal records check. Any fee required under 10977
division (C)(3) of section 109.572 of the Revised Code shall be 10978
paid by the person who is the subject of the request. 10979

Sec. 1155.03. Whenever the approval of the superintendent of 10980
financial institutions is required under Chapters 1151. to 1157. 10981
of the Revised Code, or under an order or supervisory action 10982
issued or taken under those chapters, for a person to serve as an 10983

organizer, incorporator, director, executive officer, or 10984
controlling person of a savings and loan association, or to 10985
otherwise have a substantial interest in or participate in the 10986
management of a savings and loan association, the superintendent 10987
shall request the superintendent of the bureau of criminal 10988
identification and investigation, or a vendor approved by the 10989
bureau, to conduct a criminal records check based on the person's 10990
fingerprints in accordance with ~~division (A)(14)~~ of section 10991
109.572 of the Revised Code. The superintendent of financial 10992
institutions shall request that criminal record information from 10993
the federal bureau of investigation be obtained as part of the 10994
criminal records check. Any fee required under division (C)(3) of 10995
section 109.572 of the Revised Code shall be paid by the person 10996
who is the subject of the request. 10997

Sec. 1163.05. Whenever the approval of the superintendent of 10998
financial institutions is required under Chapters 1161. to 1165. 10999
of the Revised Code, or under an order or supervisory action 11000
issued or taken under those chapters, for a person to serve as an 11001
organizer, incorporator, director, executive officer, or 11002
controlling person of a savings bank, or to otherwise have a 11003
substantial interest in or participate in the management of a 11004
savings bank, the superintendent shall request the superintendent 11005
of the bureau of criminal identification and investigation, or a 11006
vendor approved by the bureau, to conduct a criminal records check 11007
based on the person's fingerprints in accordance with ~~division~~ 11008
~~(A)(14)~~ of section 109.572 of the Revised Code. The superintendent 11009
of financial institutions shall request that criminal record 11010
information from the federal bureau of investigation be obtained 11011
as part of the criminal records check. Any fee required under 11012
division (C)(3) of section 109.572 of the Revised Code shall be 11013
paid by the person who is the subject of the request. 11014

Sec. 1315.141. Whenever the approval of the superintendent of financial institutions is required under sections 1315.01 to 1315.18 of the Revised Code, or under an order or supervisory action issued or taken under those sections, for a person to serve as an organizer, incorporator, director, executive officer, or controlling person of a licensee, or to otherwise have a substantial interest in or participate in the management of a licensee, the superintendent shall request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the person's fingerprints in accordance with ~~division (A)(14)~~ of section 109.572 of the Revised Code. The superintendent of financial institutions shall request that criminal record information from the federal bureau of investigation be obtained as part of the criminal records check. Any fee required under division (C)(3) of section 109.572 of the Revised Code shall be paid by the person who is the subject of the request.

Sec. 1321.37. (A) Application for an original or renewal license to make short-term loans shall be in writing, under oath, and in the form prescribed by the superintendent of financial institutions, and shall contain the name and address of the applicant, the location where the business of making loans is to be conducted, and any further information as the superintendent requires. At the time of making an application for an original license, the applicant shall pay to the superintendent a nonrefundable investigation fee of two hundred dollars. No investigation fee or any portion thereof shall be refunded after an original license has been issued. The application for an original or renewal license shall be accompanied by an original or renewal license fee, for each business location of one thousand dollars, except that applications for original licenses issued on

or after the first day of July for any year shall be accompanied 11046
by an original license fee of five hundred dollars, and except 11047
that an application for an original or renewal license, for a 11048
nonprofit corporation that is incorporated under Chapter 1702. of 11049
the Revised Code, shall be accompanied by an original or renewal 11050
license fee, for each business location, that is one-half of the 11051
fee otherwise required. All fees paid to the superintendent 11052
pursuant to this division shall be deposited into the state 11053
treasury to the credit of the consumer finance fund. 11054

(B) Upon the filing of an application for an original license 11055
and, with respect to an application filed for a renewal license, 11056
on a schedule determined by the superintendent by rule adopted 11057
pursuant to section 1321.43 of the Revised Code, and the payment 11058
of fees in accordance with division (A) of this section, the 11059
superintendent shall investigate the facts concerning the 11060
applicant and the requirements provided by this division. The 11061
superintendent shall request the superintendent of the bureau of 11062
criminal identification and investigation, or a vendor approved by 11063
the bureau, to conduct a criminal records check based on the 11064
applicant's fingerprints in accordance with ~~division (A)(12)~~ of 11065
section 109.572 of the Revised Code. Notwithstanding division (K) 11066
of section 121.08 of the Revised Code, the superintendent of 11067
financial institutions shall request that criminal record 11068
information from the federal bureau of investigation be obtained 11069
as part of the criminal records check. The superintendent of 11070
financial institutions shall conduct a civil records check. The 11071
superintendent shall approve an application and issue an original 11072
or renewal license to the applicant if the superintendent finds 11073
all of the following: 11074

(1) The financial responsibility, experience, reputation, and 11075
general fitness of the applicant are such as to warrant the belief 11076
that the business of making loans will be operated lawfully, 11077

honestly, and fairly under sections 1321.35 to 1321.48 of the 11078
Revised Code and within the purposes of those sections; that the 11079
applicant has fully complied with those sections and any rule or 11080
order adopted or issued pursuant to section 1321.43 of the Revised 11081
Code; and that the applicant is qualified to engage in the 11082
business of making loans under sections 1321.35 to 1321.48 of the 11083
Revised Code. 11084

(2) The applicant is financially sound and has a net worth of 11085
not less than one hundred thousand dollars, or in the case of a 11086
nonprofit corporation that is incorporated under Chapter 1702. of 11087
the Revised Code, a net worth of not less than fifty thousand 11088
dollars. The applicant's net worth shall be computed according to 11089
generally accepted accounting principles. 11090

(3) The applicant has never had revoked a license to make 11091
loans under sections 1321.35 to 1321.48 of the Revised Code, under 11092
former sections 1315.35 to 1315.44 of the Revised Code, or to do 11093
business under sections 1315.21 to 1315.30 of the Revised Code. 11094

(4) Neither the applicant nor any senior officer, or partner 11095
of the applicant, has pleaded guilty to or been convicted of any 11096
criminal offense involving theft, receiving stolen property, 11097
embezzlement, forgery, fraud, passing bad checks, money 11098
laundering, or drug trafficking, or any criminal offense involving 11099
money or securities or any violation of an existing or former law 11100
of this state, any other state, or the United States that 11101
substantially is equivalent to a criminal offense described in 11102
that division. However, if the applicant or any of those other 11103
persons has pleaded guilty to or been convicted of any such 11104
offense other than theft, the superintendent shall not consider 11105
the offense if the applicant has proven to the superintendent, by 11106
a preponderance of the evidence, that the applicant's or other 11107
person's activities and employment record since the conviction 11108
show that the applicant or other person is honest, truthful, and 11109

of good reputation, and there is no basis in fact for believing 11110
that the applicant or other person will commit such an offense 11111
again. 11112

(5) Neither the applicant nor any senior officer, or partner 11113
of the applicant, has been subject to any adverse judgment for 11114
conversion, embezzlement, misappropriation of funds, fraud, 11115
misfeasance or malfeasance, or breach of fiduciary duty, or if the 11116
applicant or any of those other persons has been subject to such a 11117
judgment, the applicant has proven to the superintendent, by a 11118
preponderance of the evidence, that the applicant's or other 11119
person's activities and employment record since the judgment show 11120
that the applicant or other person is honest, truthful, and of 11121
good reputation, and there is no basis in fact for believing that 11122
the applicant or other person will be subject to such a judgment 11123
again. 11124

(C) If the superintendent finds that the applicant does not 11125
meet the requirements of division (B) of this section, or the 11126
superintendent finds that the applicant knowingly or repeatedly 11127
contracts with or employs persons to directly engage in lending 11128
activities who have been convicted of a felony crime listed in 11129
division (B)(5) of this section, the superintendent shall issue an 11130
order denying the application for an original or renewal license 11131
and giving the applicant an opportunity for a hearing on the 11132
denial in accordance with Chapter 119. of the Revised Code. The 11133
superintendent shall notify the applicant of the denial, the 11134
grounds for the denial, and the applicant's opportunity for a 11135
hearing. If the application is denied, the superintendent shall 11136
return the annual license fee but shall retain the investigation 11137
fee. 11138

(D) No person licensed under sections 1321.35 to 1321.48 of 11139
the Revised Code shall conduct business in this state unless the 11140
licensee has obtained and maintains in effect at all times a 11141

corporate surety bond issued by a bonding company or insurance 11142
company authorized to do business in this state. The bond shall be 11143
in favor of the superintendent and in the penal sum of at least 11144
one hundred thousand dollars, or in the case of a nonprofit 11145
corporation that is incorporated under Chapter 1702. of the 11146
Revised Code, in the amount of fifty thousand dollars. The term of 11147
the bond shall coincide with the term of the license. The licensee 11148
shall file a copy of the bond with the superintendent. The bond 11149
shall be for the exclusive benefit of any borrower injured by a 11150
violation by a licensee or any employee of a licensee, of any 11151
provision of sections 1321.35 to 1321.48 of the Revised Code. 11152

Sec. 1321.53. (A)(1) An application for a certificate of 11153
registration under sections 1321.51 to 1321.60 of the Revised Code 11154
shall contain an undertaking by the applicant to abide by those 11155
sections. The application shall be in writing, under oath, and in 11156
the form prescribed by the division of financial institutions, and 11157
shall contain any information that the division may require. 11158
Applicants that are foreign corporations shall obtain and maintain 11159
a license pursuant to Chapter 1703. of the Revised Code before a 11160
certificate is issued or renewed. 11161

(2) Upon the filing of the application and the payment by the 11162
applicant of a nonrefundable two_hundred_dollar investigation fee, 11163
a nonrefundable three_hundred_dollar annual registration fee, and 11164
any additional fee required by the nationwide mortgage licensing 11165
system and registry, the division shall investigate the relevant 11166
facts. If the application involves investigation outside this 11167
state, the applicant may be required by the division to advance 11168
sufficient funds to pay any of the actual expenses of such 11169
investigation, when it appears that these expenses will exceed two 11170
hundred dollars. An itemized statement of any of these expenses 11171
which the applicant is required to pay shall be furnished to the 11172
applicant by the division. No certificate shall be issued unless 11173

all the required fees have been submitted to the division. 11174

(3) All applicants making loans secured by an interest in 11175
real estate shall designate an employee or owner of the applicant 11176
as the applicant's primary point of contact. While acting as the 11177
primary point of contact, the employee or owner shall not be 11178
employed by any other registrant or mortgage broker. 11179

(4) The investigation undertaken upon application shall 11180
include both a civil and criminal records check of the applicant 11181
including any individual whose identity is required to be 11182
disclosed in the application. Where the applicant is a business 11183
entity the superintendent shall have the authority to require a 11184
civil and criminal background check of those persons that in the 11185
determination of the superintendent have the authority to direct 11186
and control the operations of the applicant. 11187

(5)(a) Notwithstanding division (K) of section 121.08 of the 11188
Revised Code, the superintendent of financial institutions shall 11189
obtain a criminal history records check and, as part of that 11190
records check, request that criminal record information from the 11191
federal bureau of investigation be obtained. To fulfill this 11192
requirement, the superintendent shall do either of the following: 11193

(i) Request the superintendent of the bureau of criminal 11194
identification and investigation, or a vendor approved by the 11195
bureau, to conduct a criminal records check based on the 11196
applicant's fingerprints or, if the fingerprints are unreadable, 11197
based on the applicant's social security number, in accordance 11198
with ~~division (A)(12)~~ of section 109.572 of the Revised Code; 11199

(ii) Authorize the nationwide mortgage licensing system and 11200
registry to request a criminal history background check as set 11201
forth in division (C) of section 1321.531 of the Revised Code. 11202

(b) Any fee required under division (C)(3) of section 109.572 11203
of the Revised Code or by the nationwide mortgage licensing system 11204

and registry shall be paid by the applicant. 11205

(6) If an application for a certificate of registration does 11206
not contain all of the information required under division (A) of 11207
this section, and if such information is not submitted to the 11208
division or to the nationwide mortgage licensing system and 11209
registry within ninety days after the superintendent or the 11210
nationwide mortgage licensing system and registry requests the 11211
information in writing, including by electronic transmission or 11212
facsimile, the superintendent may consider the application 11213
withdrawn. 11214

(7) If the division finds that the financial responsibility, 11215
experience, character, and general fitness of the applicant 11216
command the confidence of the public and warrant the belief that 11217
the business will be operated honestly and fairly in compliance 11218
with the purposes of sections 1321.51 to 1321.60 of the Revised 11219
Code and the rules adopted thereunder, and that the applicant has 11220
the requisite bond or applicable net worth and assets required by 11221
division (B) of this section, the division shall thereupon issue a 11222
certificate of registration to the applicant. The superintendent 11223
shall not use a credit score as the sole basis for a registration 11224
denial. 11225

(a)(i) Certificates of registration issued on or after July 11226
1, 2010, shall annually expire on the thirty-first day of 11227
December, unless renewed by the filing of a renewal application 11228
and payment of a three_hundred_dollar nonrefundable annual 11229
registration fee, any assessment as determined by the 11230
superintendent pursuant to division (A)(7)(a)(ii) of this section, 11231
and any additional fee required by the nationwide mortgage 11232
licensing system and registry, on or before the last day of 11233
December of each year. No other fee or assessment shall be 11234
required of a registrant by the state or any political subdivision 11235
of this state. 11236

(ii) If the renewal fees billed by the superintendent 11237
pursuant to division (A)(7)(a)(i) of this section are less than 11238
the estimated expenditures of the consumer finance section of the 11239
division of financial institutions, as determined by the 11240
superintendent, for the following fiscal year, the superintendent 11241
may assess each registrant at a rate sufficient to equal in the 11242
aggregate the difference between the renewal fees billed and the 11243
estimated expenditures. Each registrant shall pay the assessed 11244
amount to the superintendent prior to the last day of June. In no 11245
case shall the assessment exceed ten cents per each one hundred 11246
dollars of interest (excluding charge-off recoveries), points, 11247
loan origination charges, and credit line charges collected by 11248
that registrant during the previous calendar year. If such an 11249
assessment is imposed, it shall not be less than two hundred fifty 11250
dollars per registrant and shall not exceed thirty thousand 11251
dollars less the total renewal fees paid pursuant to division 11252
(A)(7)(a)(i) of this section by each registrant. 11253

(b) Registrants shall timely file renewal applications on 11254
forms prescribed by the division and provide any further 11255
information that the division may require. If a renewal 11256
application does not contain all of the information required under 11257
this section, and if that information is not submitted to the 11258
division or to the nationwide mortgage licensing system and 11259
registry within ninety days after the superintendent or the 11260
nationwide mortgage licensing system and registry requests the 11261
information in writing, including by electronic transmission or 11262
facsimile, the superintendent may consider the application 11263
withdrawn. 11264

(c) Renewal shall not be granted if the applicant's 11265
certificate of registration is subject to an order of suspension, 11266
revocation, or an unpaid and past due fine imposed by the 11267
superintendent. 11268

(d) If the division finds the applicant does not meet the conditions set forth in this section, it shall issue a notice of intent to deny the application, and forthwith notify the applicant of the denial, the grounds for the denial, and the applicant's reasonable opportunity to be heard on the action in accordance with Chapter 119. of the Revised Code.

(8) If there is a change of five per cent or more in the ownership of a registrant, the division may make any investigation necessary to determine whether any fact or condition exists that, if it had existed at the time of the original application for a certificate of registration, the fact or condition would have warranted the division to deny the application under division (A)(7) of this section. If such a fact or condition is found, the division may, in accordance with Chapter 119. of the Revised Code, revoke the registrant's certificate.

(B) Each registrant that engages in lending under sections 1321.51 to 1321.60 of the Revised Code shall, if not otherwise required to be bonded pursuant to section 1321.533 of the Revised Code, maintain both of the following:

(1) A net worth of at least fifty thousand dollars;

(2) For each certificate of registration, assets of at least fifty thousand dollars either in use or readily available for use in the conduct of the business.

(C) Not more than one place of business shall be maintained under the same certificate, but the division may issue additional certificates to the same registrant upon compliance with sections 1321.51 to 1321.60 of the Revised Code, governing the issuance of a single certificate. No change in the place of business of a registrant to a location outside the original municipal corporation shall be permitted under the same certificate without the approval of a new application, the payment of the registration

fee and, if required by the superintendent, the payment of an 11300
investigation fee of two hundred dollars. When a registrant wishes 11301
to change its place of business within the same municipal 11302
corporation, it shall give written notice of the change in advance 11303
to the division, which shall provide a certificate for the new 11304
address without cost. If a registrant changes its name, prior to 11305
making loans under the new name it shall give written notice of 11306
the change to the division, which shall provide a certificate in 11307
the new name without cost. Sections 1321.51 to 1321.60 of the 11308
Revised Code do not limit the loans of any registrant to residents 11309
of the community in which the registrant's place of business is 11310
situated. Each certificate shall be kept conspicuously posted in 11311
the place of business of the registrant and is not transferable or 11312
assignable. 11313

(D) Sections 1321.51 to 1321.60 of the Revised Code do not 11314
apply to any of the following: 11315

(1) Entities chartered and lawfully doing business under the 11316
authority of any law of this state, another state, or the United 11317
States as a bank, savings bank, trust company, savings and loan 11318
association, or credit union, or a subsidiary of any such entity, 11319
which subsidiary is regulated by a federal banking agency and is 11320
owned and controlled by such a depository institution; 11321

(2) Life, property, or casualty insurance companies licensed 11322
to do business in this state; 11323

(3) Any person that is a lender making a loan pursuant to 11324
sections 1321.01 to 1321.19 of the Revised Code or a business loan 11325
as described in division (B)(6) of section 1343.01 of the Revised 11326
Code; 11327

(4) Any political subdivision, or any governmental or other 11328
public entity, corporation, instrumentality, or agency, in or of 11329
the United States or any state of the United States, or any entity 11330

described in division (B)(3) of section 1343.01 of the Revised Code; 11331
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(5) A college or university, or controlled entity of a college or university, as those terms are defined in section 1713.05 of the Revised Code; 11333
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(6) A credit union service organization, provided the organization utilizes services provided by registered mortgage loan originators or the organization complies with section 1321.522 of the Revised Code and holds a valid letter of exemption issued by the superintendent. 11336
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(E) No person engaged in the business of selling tangible goods or services related to tangible goods may receive or retain a certificate under sections 1321.51 to 1321.60 of the Revised Code for such place of business. 11341
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Sec. 1321.531. (A) An application for a mortgage loan originator license shall be in writing, under oath, and in the form prescribed by the superintendent of financial institutions. The application shall be accompanied by a nonrefundable application fee of one hundred fifty dollars and all other required fees, including any fees required by the nationwide mortgage licensing system and registry. 11345
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(B) The superintendent may establish relationships or enter into contracts with the nationwide mortgage licensing system and registry, or any entities designated by it, to collect and maintain records and process transaction fees or other fees related to mortgage loan originator licensees or other persons subject to or involved in their licensure. 11352
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(C) In connection with applying for a mortgage loan originator license, the applicant shall furnish to the nationwide mortgage licensing system and registry the following information 11358
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concerning the applicant's identity: 11361

(1) The applicant's fingerprints for submission to the 11362
federal bureau of investigation, and any other governmental agency 11363
or entity authorized to receive such information, for purposes of 11364
a state, national, and international criminal history background 11365
check; 11366

(2) Personal history and experience in a form prescribed by 11367
the nationwide mortgage licensing system and registry, along with 11368
authorization for the superintendent and the nationwide mortgage 11369
licensing system and registry to obtain the following: 11370

(a) An independent credit report from a consumer reporting 11371
agency; 11372

(b) Information related to any administrative, civil, or 11373
criminal findings by any governmental jurisdiction. 11374

(D) In order to effectuate the purposes of divisions (C)(1) 11375
and (C)(2)(b) of this section, the superintendent may use the 11376
conference of state bank supervisors, or a wholly owned 11377
subsidiary, as a channeling agent for requesting information from 11378
and distributing information to the United States department of 11379
justice or any other governmental agency. The superintendent may 11380
also use the nationwide mortgage licensing system and registry as 11381
a channeling agent for requesting information from and 11382
distributing information to any source related to matters subject 11383
to divisions (C)(2)(a) and (b) of this section. 11384

(E) Upon the filing of the application, payment of the 11385
application fee, and payment of any additional fee, including any 11386
fee required by the nationwide mortgage licensing system and 11387
registry, the superintendent shall investigate the applicant as 11388
set forth in division (E) of this section. 11389

(1)(a) Notwithstanding division (K) of section 121.08 of the 11390
Revised Code, the superintendent shall obtain a criminal history 11391

records check and, as part of that records check, request that 11392
criminal record information from the federal bureau of 11393
investigation be obtained. To fulfill this requirement, the 11394
superintendent shall do either of the following: 11395

(i) Request the superintendent of the bureau of criminal 11396
identification and investigation, or a vendor approved by the 11397
bureau, to conduct a criminal records check based on the 11398
applicant's fingerprints or, if the fingerprints are unreadable, 11399
based on the applicant's social security number in accordance with 11400
~~division (A)(12) of~~ section 109.572 of the Revised Code; 11401

(ii) Authorize the nationwide mortgage licensing system and 11402
registry to request a criminal history background check as set 11403
forth in division (C) of this section. 11404

(b) Any fee required under division (C)(3) of section 109.572 11405
of the Revised Code or by the nationwide mortgage licensing system 11406
and registry shall be paid by the applicant. 11407

(2) The superintendent of financial institutions shall 11408
conduct a civil records check. 11409

(3) If, in order to issue a license to an applicant, 11410
additional investigation by the superintendent outside this state 11411
is necessary, the superintendent may require the applicant to 11412
advance sufficient funds to pay the actual expenses of the 11413
investigation, if it appears that these expenses will exceed one 11414
hundred dollars. The superintendent shall provide the applicant 11415
with an itemized statement of the actual expenses that the 11416
applicant is required to pay. 11417

(F) If an application for a mortgage loan originator license 11418
does not contain all of the information required under this 11419
section, and if that information is not submitted to the 11420
superintendent or to the nationwide mortgage licensing system and 11421
registry within ninety days after the superintendent or the 11422

nationwide mortgage licensing system and registry requests the 11423
information in writing, including by electronic transmission or 11424
facsimile, the superintendent may consider the application 11425
withdrawn. 11426

Sec. 1322.03. (A) An application for a certificate of 11427
registration as a mortgage broker shall be in writing, under oath, 11428
and in the form prescribed by the superintendent of financial 11429
institutions. The application shall be accompanied by a 11430
nonrefundable application fee of five hundred dollars for each 11431
location of an office to be maintained by the applicant in 11432
accordance with division (A) of section 1322.02 of the Revised 11433
Code and any additional fee required by the nationwide mortgage 11434
licensing system and registry. The application shall provide all 11435
of the following: 11436

(1) The location or locations where the business is to be 11437
transacted and whether any location is a residence. If any 11438
location where the business is to be transacted is a residence, 11439
the superintendent may require that the application be accompanied 11440
by a copy of a zoning permit authorizing the use of the residence 11441
for commercial purposes, or by a written opinion or other document 11442
issued by the county or political subdivision where the residence 11443
is located certifying that the use of the residence to transact 11444
business as a mortgage broker is not prohibited by the county or 11445
political subdivision. 11446

(2)(a) In the case of a sole proprietor, the name and address 11447
of the sole proprietor; 11448

(b) In the case of a partnership, the name and address of 11449
each partner; 11450

(c) In the case of a corporation, the name and address of 11451
each shareholder owning five per cent or more of the corporation; 11452

(d) In the case of any other entity, the name and address of 11453
any person that owns five per cent or more of the entity that will 11454
transact business as a mortgage broker. 11455

(3) Each applicant shall designate an employee or owner of 11456
the applicant as the applicant's operations manager. While acting 11457
as the operations manager, the employee or owner shall be licensed 11458
as a loan originator under sections 1322.01 to 1322.12 of the 11459
Revised Code and shall not be employed by any other mortgage 11460
broker. 11461

(4) Evidence that the person designated on the application 11462
pursuant to division (A)(3) of this section possesses at least 11463
three years of experience in the residential mortgage and lending 11464
field, which experience may include employment with or as a 11465
mortgage broker or with a depository institution, mortgage lending 11466
institution, or other lending institution, or possesses at least 11467
three years of other experience related specifically to the 11468
business of residential mortgage loans that the superintendent 11469
determines meets the requirements of division (A)(4) of this 11470
section; 11471

(5) Evidence that the person designated on the application 11472
pursuant to division (A)(3) of this section has successfully 11473
completed the pre-licensing instruction requirements set forth in 11474
section 1322.031 of the Revised Code; 11475

(6) Evidence of compliance with the surety bond requirements 11476
of section 1322.05 of the Revised Code and with sections 1322.01 11477
to 1322.12 of the Revised Code; 11478

(7) In the case of a foreign business entity, evidence that 11479
it maintains a license or registration pursuant to Chapter 1703., 11480
1705., 1775., 1776., 1777., 1782., or 1783. of the Revised Code to 11481
transact business in this state; 11482

(8) Evidence that the applicant's operations manager has 11483

successfully completed the written test required under division 11484
(A) of section 1322.051 of the Revised Code; 11485

(9) Any further information that the superintendent requires. 11486

(B) Upon the filing of the application and payment of the 11487
nonrefundable application fee and any fee required by the 11488
nationwide mortgage licensing system and registry, the 11489
superintendent of financial institutions shall investigate the 11490
applicant, and any individual whose identity is required to be 11491
disclosed in the application, as set forth in division (B) of this 11492
section. 11493

(1)(a) Notwithstanding division (K) of section 121.08 of the 11494
Revised Code, the superintendent shall obtain a criminal history 11495
records check and, as part of that records check, request that 11496
criminal record information from the federal bureau of 11497
investigation be obtained. To fulfill this requirement, the 11498
superintendent shall do either of the following: 11499

(i) Request the superintendent of the bureau of criminal 11500
identification and investigation, or a vendor approved by the 11501
bureau, to conduct a criminal records check based on the 11502
applicant's fingerprints or, if the fingerprints are unreadable, 11503
based on the applicant's social security number, in accordance 11504
with ~~division (A)(12) of~~ section 109.572 of the Revised Code; 11505

(ii) Authorize the nationwide mortgage licensing system and 11506
registry to request a criminal history background check. 11507

(b) Any fee required under division (C)(3) of section 109.572 11508
of the Revised Code or by the nationwide mortgage licensing system 11509
and registry shall be paid by the applicant. 11510

(2) The superintendent shall conduct a civil records check. 11511

(3) If, in order to issue a certificate of registration to an 11512
applicant, additional investigation by the superintendent outside 11513

this state is necessary, the superintendent may require the 11514
applicant to advance sufficient funds to pay the actual expenses 11515
of the investigation, if it appears that these expenses will 11516
exceed five hundred dollars. The superintendent shall provide the 11517
applicant with an itemized statement of the actual expenses that 11518
the applicant is required to pay. 11519

(C) The superintendent shall pay all funds advanced and 11520
application and renewal fees and penalties the superintendent 11521
receives pursuant to this section and section 1322.04 of the 11522
Revised Code to the treasurer of state to the credit of the 11523
consumer finance fund created in section 1321.21 of the Revised 11524
Code. 11525

(D) If an application for a mortgage broker certificate of 11526
registration does not contain all of the information required 11527
under division (A) of this section, and if that information is not 11528
submitted to the superintendent or to the nationwide mortgage 11529
licensing system and registry within ninety days after the 11530
superintendent or the nationwide mortgage licensing system and 11531
registry requests the information in writing, including by 11532
electronic transmission or facsimile, the superintendent may 11533
consider the application withdrawn. 11534

(E) A mortgage broker certificate of registration and the 11535
authority granted under that certificate is not transferable or 11536
assignable and cannot be franchised by contract or any other 11537
means. 11538

(F) The registration requirements of this chapter apply to 11539
any person acting as a mortgage broker, and no person is exempt 11540
from the requirements of this chapter on the basis of prior work 11541
or employment as a mortgage broker. 11542

(G) The superintendent may establish relationships or enter 11543
into contracts with the nationwide mortgage licensing system and 11544

registry, or any entities designated by it, to collect and 11545
maintain records and process transaction fees or other fees 11546
related to mortgage broker certificates of registration or the 11547
persons associated with a mortgage broker. 11548

Sec. 1322.031. (A) An application for a license as a loan 11549
originator shall be in writing, under oath, and in the form 11550
prescribed by the superintendent of financial institutions. The 11551
application shall be accompanied by a nonrefundable application 11552
fee of one hundred fifty dollars and any additional fee required 11553
by the nationwide mortgage licensing system and registry. 11554

(B)(1) The application shall provide evidence, acceptable to 11555
the superintendent, that the applicant has successfully completed 11556
at least twenty-four hours of pre-licensing instruction consisting 11557
of all of the following: 11558

(a) Twenty hours of instruction in a course or program of 11559
study reviewed and approved by the nationwide mortgage licensing 11560
system and registry; 11561

(b) Four hours of instruction in a course or program of study 11562
reviewed and approved by the superintendent concerning state 11563
lending laws and the Ohio consumer sales practices act, Chapter 11564
1345. of the Revised Code, as it applies to registrants and 11565
licensees. 11566

(2) Notwithstanding division (B)(1) of this section, until 11567
the nationwide mortgage licensing system and registry implements a 11568
review and approval program, the application shall provide 11569
evidence, as determined by the superintendent, that the applicant 11570
has successfully completed at least twenty-four hours of 11571
instruction in a course or program of study approved by the 11572
superintendent that consists of at least all of the following: 11573

(a) Four hours of instruction concerning state and federal 11574

mortgage lending laws, which shall include no less than two hours	11575
on this chapter;	11576
(b) Four hours of instruction concerning the Ohio consumer	11577
sales practices act, Chapter 1345. of the Revised Code, as it	11578
applies to registrants and licensees;	11579
(c) Four hours of instruction concerning the loan application	11580
process;	11581
(d) Two hours of instruction concerning the underwriting	11582
process;	11583
(e) Two hours of instruction concerning the secondary market	11584
for mortgage loans;	11585
(f) Four hours of instruction concerning the loan closing	11586
process;	11587
(g) Two hours of instruction covering basic mortgage	11588
financing concepts and terms;	11589
(h) Two hours of instruction concerning the ethical	11590
responsibilities of a registrant and a licensee, including with	11591
respect to confidentiality, consumer counseling, and the duties	11592
and standards of care created in section 1322.081 of the Revised	11593
Code.	11594
(3) For purposes of division (B)(1)(a) of this section, the	11595
review and approval of a course or program of study includes the	11596
review and approval of the provider of the course or program of	11597
study.	11598
(4) If an applicant held a valid loan originator license	11599
issued by this state at any time during the immediately preceding	11600
five-year period, the applicant shall not be required to complete	11601
any additional pre-licensing instruction. For this purpose, any	11602
time during which the individual is a registered loan originator	11603
shall not be taken into account.	11604

(5) A person having successfully completed the pre-licensing education requirement reviewed and approved by the nationwide mortgage licensing system and registry for any state within the previous five years shall be granted credit toward completion of the pre-licensing education requirement of this state.

(C) In addition to the information required under division (B) of this section, the application shall provide both of the following:

(1) Evidence that the applicant passed a written test that meets the requirements described in division (B) of section 1322.051 of the Revised Code;

(2) Any further information that the superintendent requires.

(D) Upon the filing of the application and payment of the application fee and any fee required by the nationwide mortgage licensing system and registry, the superintendent of financial institutions shall investigate the applicant as set forth in division (D) of this section.

(1)(a) Notwithstanding division (K) of section 121.08 of the Revised Code, the superintendent shall obtain a criminal history records check and, as part of the records check, request that criminal record information from the federal bureau of investigation be obtained. To fulfill this requirement, the superintendent shall do either of the following:

(i) Request the superintendent of the bureau of criminal identification and investigation, or a vendor approved by the bureau, to conduct a criminal records check based on the applicant's fingerprints or, if the fingerprints are unreadable, based on the applicant's social security number, in accordance with ~~division (A)(12)~~ of section 109.572 of the Revised Code;

(ii) Authorize the nationwide mortgage licensing system and registry to request a criminal history background check.

(b) Any fee required under division (C)(3) of section 109.572 of the Revised Code or by the nationwide mortgage licensing system and registry shall be paid by the applicant.

(2) The superintendent shall conduct a civil records check.

(3) If, in order to issue a license to an applicant, additional investigation by the superintendent outside this state is necessary, the superintendent may require the applicant to advance sufficient funds to pay the actual expenses of the investigation, if it appears that these expenses will exceed one hundred fifty dollars. The superintendent shall provide the applicant with an itemized statement of the actual expenses that the applicant is required to pay.

(E)(1) In connection with applying for a loan originator license, the applicant shall furnish to the nationwide mortgage licensing system and registry the following information concerning the applicant's identity:

(a) The applicant's fingerprints for submission to the federal bureau of investigation, and any other governmental agency or entity authorized to receive such information, for purposes of a state, national, and international criminal history background check;

(b) Personal history and experience in a form prescribed by the nationwide mortgage licensing system and registry, along with authorization for the superintendent and the nationwide mortgage licensing system and registry to obtain the following:

(i) An independent credit report from a consumer reporting agency;

(ii) Information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(2) In order to effectuate the purposes of divisions

(E)(1)(a) and (E)(1)(b)(ii) of this section, the superintendent 11666
may use the conference of state bank supervisors, or a wholly 11667
owned subsidiary, as a channeling agent for requesting information 11668
from and distributing information to the United States department 11669
of justice or any other governmental agency. The superintendent 11670
may also use the nationwide mortgage licensing system and registry 11671
as a channeling agent for requesting information from and 11672
distributing information to any source related to matters subject 11673
to those divisions of this section. 11674

(F) The superintendent shall pay all funds advanced and 11675
application and renewal fees and penalties the superintendent 11676
receives pursuant to this section and section 1322.041 of the 11677
Revised Code to the treasurer of state to the credit of the 11678
consumer finance fund created in section 1321.21 of the Revised 11679
Code. 11680

(G) If an application for a loan originator license does not 11681
contain all of the information required under this section, and if 11682
that information is not submitted to the superintendent or to the 11683
nationwide mortgage licensing system and registry within ninety 11684
days after the superintendent or the nationwide mortgage licensing 11685
system and registry requests the information in writing, including 11686
by electronic transmission or facsimile, the superintendent may 11687
consider the application withdrawn. 11688

(H)(1) The business of a loan originator shall principally be 11689
transacted at an office of the mortgage broker with whom the 11690
licensee is employed or associated, which office is registered in 11691
accordance with division (A) of section 1322.02 of the Revised 11692
Code. Each original loan originator license shall be deposited 11693
with and maintained by the mortgage broker at the mortgage 11694
broker's main office. A copy of the license shall be maintained 11695
and displayed at the office where the loan originator principally 11696
transacts business. 11697

(2) If a loan originator's employment or association is 11698
terminated for any reason, the mortgage broker shall return the 11699
original loan originator license to the superintendent within five 11700
business days after the termination. The licensee may request the 11701
transfer of the license to another mortgage broker by submitting a 11702
transfer application, along with a fifteen dollar fee and any fee 11703
required by the national mortgage licensing system and registry, 11704
to the superintendent or may request the superintendent in writing 11705
to hold the license in escrow. Any licensee whose license is held 11706
in escrow shall cease activity as a loan originator. A licensee 11707
whose license is held in escrow shall be required to apply for 11708
renewal annually and to comply with the annual continuing 11709
education requirement. 11710

(3) A mortgage broker may employ or be associated with a loan 11711
originator on a temporary basis pending the transfer of the loan 11712
originator's license to the mortgage broker, if the mortgage 11713
broker receives written confirmation from the superintendent that 11714
the loan originator is licensed under sections 1322.01 to 1322.12 11715
of the Revised Code. 11716

(4) Notwithstanding divisions (H)(1) to (3) of this section, 11717
if a licensee is employed by or associated with a person or entity 11718
listed in division (G)(2) of section 1322.01 of the Revised Code, 11719
all of the following apply: 11720

(a) The licensee shall maintain and display the original loan 11721
originator license at the office where the licensee principally 11722
transacts business; 11723

(b) If the loan originator's employment or association is 11724
terminated, the loan originator shall return the original loan 11725
originator license to the superintendent within five business days 11726
after termination. The licensee may request the transfer of the 11727
license to a mortgage broker or another person or entity listed in 11728
division (G)(2) of section 1322.01 of the Revised Code by 11729

submitting a transfer application, along with a fifteen-dollar fee 11730
and any fee required by the national mortgage licensing system and 11731
registry, to the superintendent or may request the superintendent 11732
in writing to hold the license in escrow. A licensee whose license 11733
is held in escrow shall cease activity as a loan originator. A 11734
licensee whose license is held in escrow shall be required to 11735
apply for renewal annually and to comply with the annual 11736
continuing education requirement. 11737

(c) The licensee may seek to be employed or associated with a 11738
mortgage broker or person or entity listed in division (G)(2) of 11739
section 1322.01 of the Revised Code if the mortgage broker or 11740
person or entity receives written confirmation from the 11741
superintendent that the loan originator is licensed under sections 11742
1322.01 to 1322.12 of the Revised Code. 11743

(I) The superintendent may establish relationships or enter 11744
into contracts with the nationwide mortgage licensing system and 11745
registry, or any entities designated by it, to collect and 11746
maintain records and process transaction fees or other fees 11747
related to loan originator licenses or the persons associated with 11748
a licensee. 11749

(J) A loan originator license, or the authority granted under 11750
that license, is not assignable and cannot be franchised by 11751
contract or any other means. 11752

Sec. 1345.05. (A) The attorney general shall: 11753

(1) Adopt, amend, and repeal procedural rules; 11754

(2) Adopt as a rule a description of the organization of the 11755
attorney general's office, stating the general courses and methods 11756
of operation of the section of the office of the attorney general, 11757
which is to administer Chapter 1345. of the Revised Code and 11758
methods whereby the public may obtain information or make 11759

submissions or requests, including a description of all forms and 11760
instructions used by that office; 11761

(3) Make available for public inspection all rules and all 11762
other written statements of policy or interpretations adopted or 11763
used by the attorney general in the discharge of the attorney 11764
general's functions, together with all judgments, including 11765
supporting opinions, by courts of this state that determine the 11766
rights of the parties and concerning which appellate remedies have 11767
been exhausted, or lost by the expiration of the time for appeal, 11768
determining that specific acts or practices violate section 11769
1345.02, 1345.03, or 1345.031 of the Revised Code; 11770

(4) Inform consumers and suppliers on a continuing basis of 11771
acts or practices that violate Chapter 1345. of the Revised Code 11772
by, among other things, publishing an informational document 11773
describing acts and practices in connection with residential 11774
mortgages that are unfair, deceptive, or unconscionable, and by 11775
making that information available on the attorney general's 11776
official web site; 11777

(5) Cooperate with state and local officials, officials of 11778
other states, and officials of the federal government in the 11779
administration of comparable statutes; 11780

(6) Report annually on or before the ~~first~~ thirty-first day 11781
of January to the governor and the general assembly on the 11782
operations of the attorney general in respect to Chapter 1345. of 11783
the Revised Code, and on the acts or practices occurring in this 11784
state that violate such chapter. The report shall include a 11785
statement of investigatory and enforcement procedures and 11786
policies, of the number of investigations and enforcement 11787
proceedings instituted and of their disposition, and of other 11788
activities of the state and of other persons to promote the 11789
purposes of Chapter 1345. of the Revised Code. 11790

(7) In carrying out official duties, the attorney general shall not disclose publicly the identity of suppliers investigated or the facts developed in investigations unless these matters have become a matter of public record in enforcement proceedings, in public hearings conducted pursuant to division (B)(1) of this section, or the suppliers investigated have consented in writing to public disclosure.

(B) The attorney general may:

(1) Conduct research, make inquiries, hold public hearings, and publish studies relating to consumer transactions;

(2) Adopt, amend, and repeal substantive rules defining with reasonable specificity acts or practices that violate sections 1345.02, 1345.03, and 1345.031 of the Revised Code. In adopting, amending, or repealing substantive rules defining acts or practices that violate section 1345.02 of the Revised Code, due consideration and great weight shall be given to federal trade commission orders, trade regulation rules and guides, and the federal courts' interpretations of subsection 45(a)(1) of the "Federal Trade Commission Act," 38 Stat. 717 (1914), 15 U.S.C.A. 41, as amended.

In adopting, amending, or repealing such rules concerning a consumer transaction in connection with a residential mortgage, the attorney general shall consult with the superintendent of financial institutions and shall give due consideration to state and federal statutes, regulations, administrative agency interpretations, and case law.

(C) In the conduct of public hearings authorized by this section, the attorney general may administer oaths, subpoena witnesses, adduce evidence, and require the production of relevant material. Upon failure of a person without lawful excuse to obey a subpoena or to produce relevant matter, the attorney general may

apply to a court of common pleas for an order compelling 11822
compliance. 11823

(D) The attorney general may request that an individual who 11824
refuses to testify or to produce relevant material on the ground 11825
that the testimony or matter may incriminate the individual be 11826
ordered by the court to provide the testimony or matter. With the 11827
exception of a prosecution for perjury and an action for damages 11828
under section 1345.07 or 1345.09 of the Revised Code, an 11829
individual who complies with a court order to provide testimony or 11830
matter, after asserting a privilege against self incrimination to 11831
which the individual is entitled by law, shall not be subjected to 11832
a criminal proceeding on the basis of the testimony or matter 11833
discovered through that testimony or matter. 11834

(E) Any person may petition the attorney general requesting 11835
the adoption, amendment, or repeal of a rule. The attorney general 11836
shall prescribe by rule the form for such petitions and the 11837
procedure for their submission, consideration, and disposition. 11838
Within sixty days of submission of a petition, the attorney 11839
general shall either deny the petition in writing, stating the 11840
reasons for the denial, or initiate rule-making proceedings. There 11841
is no right to appeal from such denial of a petition. 11842

(F) All rules shall be adopted subject to Chapter 119. of the 11843
Revised Code. 11844

(G) The informational document published in accordance with 11845
division (A)(4) of this section shall be made available for 11846
distribution to consumers who are applying for a mortgage loan. An 11847
acknowledgement of receipt shall be retained by the lender, 11848
mortgage broker, and loan officer, as applicable, subject to 11849
review by the attorney general and the department of commerce. 11850

Sec. 1501.04. There is hereby created in the department of 11851
natural resources a recreation and resources commission composed 11852

of the chairperson of the wildlife council created under section 11853
1531.03 of the Revised Code, the chairperson of the parks and 11854
recreation council created under section 1541.40 of the Revised 11855
Code, the chairperson of the waterways safety council created 11856
under section 1547.73 of the Revised Code, the chairperson of the 11857
technical advisory council on oil and gas created under section 11858
1509.38 of the Revised Code, the chairperson of the forestry 11859
advisory council created under section 1503.40 of the Revised 11860
Code, the chairperson of the Ohio soil and water conservation 11861
commission created under section 1515.02 of the Revised Code, the 11862
chairperson of the Ohio natural areas council created under 11863
section 1517.03 of the Revised Code, the chairperson of the Ohio 11864
water advisory council created under section 1521.031 of the 11865
Revised Code, ~~the chairperson of the recycling and litter~~ 11866
~~prevention advisory council created under section 1502.04 of the~~ 11867
~~Revised Code,~~ the chairperson of the Ohio geology advisory council 11868
created under section 1505.11 of the Revised Code, and five 11869
members appointed by the governor with the advice and consent of 11870
the senate, not more than three of whom shall belong to the same 11871
political party. The director of natural resources shall be an ex 11872
officio member of the commission, with a voice in its 11873
deliberations, but without the power to vote. 11874

Terms of office of members of the commission appointed by the 11875
governor shall be for five years, commencing on the second day of 11876
February and ending on the first day of February. Each member 11877
shall hold office from the date of appointment until the end of 11878
the term for which the member was appointed. 11879

In the event of the death, removal, resignation, or 11880
incapacity of a member of the commission, the governor, with the 11881
advice and consent of the senate, shall appoint a successor who 11882
shall hold office for the remainder of the term for which the 11883
member's predecessor was appointed. Any member shall continue in 11884

office subsequent to the expiration date of the member's term 11885
until the member's successor takes office, or until a period of 11886
sixty days has elapsed, whichever occurs first. 11887

The governor may remove any appointed member of the 11888
commission for misfeasance, nonfeasance, or malfeasance in office. 11889

The commission shall exercise no administrative function, but 11890
may do any of the following: 11891

(A) Advise with and recommend to the director as to plans and 11892
programs for the management, development, utilization, and 11893
conservation of the natural resources of the state; 11894

(B) Advise with and recommend to the director as to methods 11895
of coordinating the work of the divisions of the department; 11896

(C) Consider and make recommendations upon any matter that 11897
the director may submit to it; 11898

(D) Submit to the governor biennially recommendations for 11899
amendments to the conservation laws of the state. 11900

Each member of the commission, before entering upon the 11901
discharge of the member's duties, shall take and subscribe to an 11902
oath of office, which oath, in writing, shall be filed in the 11903
office of the secretary of state. 11904

The members of the commission shall serve without 11905
compensation, but shall be entitled to receive their actual and 11906
necessary expenses incurred in the performance of their official 11907
duties. 11908

The commission, by a majority vote of all its members, shall 11909
adopt and amend bylaws. 11910

To be eligible for appointment, a person shall be a citizen 11911
of the United States and an elector of the state and shall possess 11912
a knowledge of and have an interest in the natural resources of 11913
this state. 11914

The commission shall hold at least four regular quarterly meetings each year. Special meetings shall be held at such times as the bylaws of the commission provide. Notices of all meetings shall be given in such manner as the bylaws provide. The commission shall choose annually from among its members a chairperson to preside over its meetings and a secretary to keep a record of its proceedings. A majority of the members of the commission constitutes a quorum. No advice shall be given or recommendation made without a majority of the members of the commission concurring in it.

Sec. 1503.012. There is hereby created in the state treasury the forestry mineral royalties fund. The fund shall consist of money deposited into it under section 1509.73 of the Revised Code. Any investment proceeds earned on money in the fund shall be credited to the fund.

Money in the fund shall be used by the division of forestry to acquire land and to pay capital costs, including equipment and repairs and renovations of facilities, that are owned by the state and administered by the division. Expenditures from the fund for those purposes shall be approved by the director of natural resources.

The director of natural resources also may request the director of budget and management to transfer money from the forestry mineral royalties fund to the parks mineral royalties fund created in section 1541.26 of the Revised Code. The director of budget and management shall transfer the money pursuant to the request if the director consents to the request. Money that is transferred to the parks mineral royalties fund shall be used for the purposes specified in section 1541.26 of the Revised Code.

Sec. 1503.43. (A) As used in this section:

(1) "Wilderness area" means a contiguous area of relatively undeveloped state-owned land administered by the division of forestry and consisting of not less than five thousand acres or of sufficient size as to make practicable its preservation and use in an unimpaired condition that either has retained its natural character and influence or has been substantially restored to a near natural appearance and that meets both of the following qualifications:

(a) The area is one in which humankind's past influences are largely unnoticed;

(b) The area has outstanding opportunities for solitude or for a primitive and unconfined type of recreation.

(2) "Utility facility" includes, without limitation, towers, poles, pipes, sewers, tubing, conduits, conductors, cables, valves, lines, wires, manholes, and appurtenances thereto owned by a utility facility operator.

(3) "Utility facility operator" means a person or public authority that supplies any of the following materials or services by means of a utility facility:

(a) Flammable, toxic, or corrosive gas;

(b) Crude oil, petroleum products, or hazardous liquids;

(c) Coal;

(d) Electricity;

(e) Electronic, telephonic, or telegraphic communications;

(f) Television signals;

(g) Sewage disposal or drainage;

(h) Potable water;

(i) Steam or hot water.

(B) That portion of contiguous state lands located in Scioto

and Adams counties and within the Shawnee state forest and bounded 11974
by forest road seventeen and sunshine ridge to the north, by upper 11975
Twin Creek road to the east and northeast, by United States route 11976
fifty-two to the south, and by lower Twin Creek road to the west 11977
and southwest is hereby designated the Shawnee wilderness area. 11978
Except as otherwise specifically provided by this section or by 11979
rule adopted under this chapter, the provisions of this chapter 11980
apply to the Shawnee wilderness area, and that area shall continue 11981
to be a part of the Shawnee state forest. 11982

(C) The Shawnee wilderness area shall be managed to preserve 11983
natural conditions and ensure the continuance of natural 11984
processes. The chief of the division of forestry, with the 11985
approval of the director of natural resources, shall administer 11986
the Shawnee wilderness area in accordance with a management plan, 11987
which the chief shall develop and adopt within one year after 11988
September 14, 1988. Sixty days prior to adopting a plan, the chief 11989
shall solicit public review and comment on a draft plan. At least 11990
once every ten years, the chief shall conduct a review of the 11991
plan, with public input, and revise the plan as appropriate. The 11992
chief shall make the plan available for review by any person upon 11993
request. 11994

(D) Notwithstanding any other authority granted to the chief 11995
under this chapter, the chief shall include within the management 11996
plan adopted under division (C) of this section prohibitions of 11997
the following activities within the Shawnee wilderness area except 11998
for the areas exempted in division (E) of this section: 11999

(1) Picking, removal, cutting, or alteration in any manner of 12000
any vegetation unless the person first has obtained written 12001
consent from the chief for that activity and the action is 12002
necessary for appropriate public access, the preservation or 12003
restoration of a plant or wildlife species, or the documentation 12004
of scientific values; 12005

(2) Granting of any easement or license, or sale or lease of any of the land, for any purpose. Division (D)(2) of this section does not apply to any private easement or license in existence on September 14, 1988.	12006 12007 12008 12009
(3) Exploration for or extraction of any coal, oil, gas, or minerals;	12010 12011
(4) Operation, construction, or installation of a utility facility above or below the surface of the land;	12012 12013
(5) Operation of a commercial enterprise;	12014
(6) Except as provided in division (D)(7) of this section, construction of a road upon any of the land or use of the land as a road;	12015 12016 12017
(7) Except as is necessary to meet emergency requirements for administration of the area:	12018 12019
(a) Landing of an aircraft;	12020
(b) Operation of a motor vehicle, motor boat, other form of mechanical transport, or motorized equipment;	12021 12022
(c) Construction of any building or other structure;	12023
(d) Use of the land as a temporary road.	12024
(E)(1) The following areas, which now are necessary for the administration of the Shawnee state forest and the state forest system, are not subject to the prohibitions of division (D) of this section:	12025 12026 12027 12028
(a) The Buena Vista manager's residence;	12029
(b) The Buena Vista walnut seed orchard;	12030
(c) The Twin Creek fire tower.	12031
(2) <u>The following areas, which now are necessary for the administration of the Shawnee state forest and the state forest system, are not subject to the prohibition established in division</u>	12032 12033 12034

<u>(D)(7)(b) of this section for the purpose of trail maintenance:</u>	12035
<u>(a) The hiking trail west of upper Twin Creek road known as the wilderness loop;</u>	12036
	12037
<u>(b) Buckhorn ridge bridle trail;</u>	12038
<u>(c) Cabbage patch bridle trail.</u>	12039
<u>(3) At any time that the chief makes a determination that it is no longer necessary for the administration of the Shawnee state forest or the state forest system for an area excluded in division (E)(1) or (2) of this section to be excluded, the area shall become subject to the prohibitions of established in division (D) of this section or the prohibition established in division (D)(7)(b) of this section, as applicable.</u>	12040
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(F) The chief, in developing a management plan under division (C) of this section, may not prohibit any hunting, fishing, or trapping that is done in conformity with Chapters 1531. and 1533. of the Revised Code or any rules adopted under those chapters.	12047
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Sec. 1506.42. The state, acting through the director of natural resources, subject to section 1506.46 of the Revised Code, may enter into agreements with counties, townships, municipal corporations, park boards, and conservancy districts, other political subdivisions, or any state departments or divisions for the purpose of constructing and maintaining projects to control erosion along the Ohio shoreline of Lake Erie and in any rivers and bays that are connected with Lake Erie and any other watercourses that flow into Lake Erie. Such projects also may be constructed on any Lake Erie island that is situated within the boundaries of the state.	12051
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The cost of such shore erosion projects that are for the benefit of public littoral property shall be prorated on the basis of two-thirds of the total cost to the state through	12062
	12063
	12064

appropriations made to the department of natural resources and 12065
one-third of the cost to the counties, townships, municipal 12066
corporations, park boards, conservancy districts, or other 12067
political subdivisions. 12068

If a shore erosion emergency is declared by the governor, the 12069
state, acting through the director, may spend whatever state funds 12070
are available to alleviate shore erosion, without participation by 12071
any political subdivision, regardless of whether the project will 12072
benefit public or private littoral property. 12073

A board of county commissioners, acting for the county over 12074
which it has jurisdiction, may enter into and carry out agreements 12075
with the director for the construction and maintenance of projects 12076
to control shore erosion. In providing the funds for the county's 12077
proportionate share of the cost of constructing and maintaining 12078
the projects referred to in this section, the board shall be 12079
governed by and may issue and refund bonds in accordance with 12080
Chapter 133. of the Revised Code. 12081

A municipal corporation or a township, acting through the 12082
legislative authority or the board of township trustees, may enter 12083
into and carry out agreements with the director for the purpose of 12084
constructing and maintaining projects to control shore erosion. In 12085
providing the funds for the municipal corporation's or township's 12086
proportionate share of the cost of constructing and maintaining 12087
the projects referred to in this section, a municipal corporation 12088
or township may issue and refund bonds in accordance with Chapter 12089
133. of the Revised Code. The contract shall be executed on behalf 12090
of the municipal corporation or township by the mayor, city 12091
manager, or other chief executive officer who has the authority to 12092
act for the municipal corporation or township. 12093

Conservancy districts may enter into and carry out agreements 12094
with the director, in accordance with the intent of this section, 12095
under the powers conferred upon conservancy districts under 12096

Chapter 6101. of the Revised Code. 12097

Park boards may enter into and carry out agreements with the 12098
director, in accordance with the intent of this section, and issue 12099
bonds for that purpose under the powers conferred upon park 12100
districts under Chapter 1545. of the Revised Code. 12101

The director shall approve and supervise all projects that 12102
are to be constructed in accordance with this section. The 12103
director shall not proceed with the construction of any project 12104
until all funds that are to be paid by the county, township, 12105
municipal corporation, park board, or conservancy district, in 12106
accordance with the terms of the agreement entered into between 12107
the director and the county, township, municipal corporation, park 12108
board, or conservancy district, are in the director's possession 12109
and deposited in the shore erosion fund, which is hereby created 12110
in the state treasury. If the director finds it to be in the best 12111
interests of the state to construct projects as set forth in this 12112
section by the state itself, without the financial contribution of 12113
counties, townships, municipal corporations, park boards, or 12114
conservancy districts, the director may construct the projects. 12115

In deciding whether to assist a county or municipal 12116
corporation in constructing and maintaining a project under this 12117
section, the state, acting through the director, shall consider, 12118
among other factors, whether the county or municipal corporation 12119
has adopted or is in the process of adopting a Lake Erie coastal 12120
erosion area resolution or ordinance under division (D) of section 12121
1506.07 of the Revised Code. 12122

All projects constructed by the state in conformity with 12123
sections 1506.38 to 1506.46 of the Revised Code shall be 12124
constructed subject to sections 153.01 to 153.20 of the Revised 12125
Code, except that the ~~state architect and engineer~~ Ohio facilities 12126
construction commission is not required to prepare the plans and 12127
specifications for those projects. 12128

Sec. 1509.071. (A) When the chief of the division of oil and 12129
gas resources management finds that an owner has failed to comply 12130
with a final nonappealable order issued or compliance agreement 12131
entered into under section 1509.04, the restoration requirements 12132
of section 1509.072, plugging requirements of section 1509.12, or 12133
permit provisions of section 1509.13 of the Revised Code, or rules 12134
and orders relating thereto, the chief shall make a finding of 12135
that fact and declare any surety bond filed to ensure compliance 12136
with those sections and rules forfeited in the amount set by rule 12137
of the chief. The chief thereupon shall certify the total 12138
forfeiture to the attorney general, who shall proceed to collect 12139
the amount of the forfeiture. In addition, the chief may require 12140
an owner, operator, producer, or other person who forfeited a 12141
surety bond to post a new surety bond in the amount of fifteen 12142
thousand dollars for a single well, thirty thousand dollars for 12143
two wells, or fifty thousand dollars for three or more wells. 12144

In lieu of total forfeiture, the surety or owner, at the 12145
surety's or owner's option, may cause the well to be properly 12146
plugged and abandoned and the area properly restored or pay to the 12147
treasurer of state the cost of plugging and abandonment. 12148

(B) All moneys collected because of forfeitures of bonds as 12149
provided in this section shall be deposited in the state treasury 12150
to the credit of the oil and gas well fund created in section 12151
1509.02 of the Revised Code. 12152

The chief annually shall spend not less than fourteen per 12153
cent of the revenue credited to the fund during the previous 12154
fiscal year for the following purposes: 12155

(1) In accordance with division (D) of this section, to plug 12156
idle and orphaned wells or to restore the land surface properly as 12157
required in section 1509.072 of the Revised Code; 12158

(2) In accordance with division (E) of this section, to 12159

correct conditions that the chief reasonably has determined are 12160
causing imminent health or safety risks at an idle and orphaned 12161
well or a well for which the owner cannot be contacted in order to 12162
initiate a corrective action within a reasonable period of time as 12163
determined by the chief. 12164

Expenditures from the fund shall be made only for lawful 12165
purposes. In addition, expenditures from the fund shall not be 12166
made to purchase real property or to remove a dwelling in order to 12167
access a well. 12168

(C)(1) Upon determining that the owner of a well has failed 12169
to properly plug and abandon it or to properly restore the land 12170
surface at the well site in compliance with the applicable 12171
requirements of this chapter and applicable rules adopted and 12172
orders issued under it or that a well is an abandoned well for 12173
which no funds are available to plug the well in accordance with 12174
this chapter, the chief shall do all of the following: 12175

(a) Determine from the records in the office of the county 12176
recorder of the county in which the well is located the identity 12177
of the owner of the land on which the well is located, the 12178
identity of the owner of the oil or gas lease under which the well 12179
was drilled or the identity of each person owning an interest in 12180
the lease, and the identities of the persons having legal title 12181
to, or a lien upon, any of the equipment appurtenant to the well; 12182

(b) Mail notice to the owner of the land on which the well is 12183
located informing the landowner that the well is to be plugged. If 12184
the owner of the oil or gas lease under which the well was drilled 12185
is different from the owner of the well or if any persons other 12186
than the owner of the well own interests in the lease, the chief 12187
also shall mail notice that the well is to be plugged to the owner 12188
of the lease or to each person owning an interest in the lease, as 12189
appropriate. 12190

(c) Mail notice to each person having legal title to, or a lien upon, any equipment appurtenant to the well, informing the person that the well is to be plugged and offering the person the opportunity to plug the well and restore the land surface at the well site at the person's own expense in order to avoid forfeiture of the equipment to this state.

(2) If none of the persons described in division (C)(1)(c) of this section plugs the well within sixty days after the mailing of the notice required by that division, all equipment appurtenant to the well is hereby declared to be forfeited to this state without compensation and without the necessity for any action by the state for use to defray the cost of plugging and abandoning the well and restoring the land surface at the well site.

(D) Expenditures from the fund for the purpose of division (B)(1) of this section shall be made in accordance with either of the following:

(1) The expenditures may be made pursuant to contracts entered into by the chief with persons who agree to furnish all of the materials, equipment, work, and labor as specified and provided in such a contract for activities associated with the restoration or plugging of a well as determined by the chief. The activities may include excavation to uncover a well, geophysical methods to locate a buried well when clear evidence of leakage from the well exists, cleanout of wellbores to remove material from a failed plugging of a well, plugging operations, installation of vault and vent systems, including associated engineering certifications and permits, restoration of property, and repair of damage to property that is caused by such activities. Expenditures shall not be used for salaries, maintenance, equipment, or other administrative purposes, except for costs directly attributed to the plugging of an idle and orphaned well. Agents or employees of persons contracting with the

chief for a restoration or plugging project may enter upon any 12223
land, public or private, on which the well is located for the 12224
purpose of performing the work. Prior to such entry, the chief 12225
shall give to the following persons written notice of the 12226
existence of a contract for a project to restore or plug a well, 12227
the names of the persons with whom the contract is made, and the 12228
date that the project will commence: the owner of the well, the 12229
owner of the land upon which the well is located, the owner or 12230
agents of adjoining land, and, if the well is located in the same 12231
township as or in a township adjacent to the excavations and 12232
workings of a mine and the owner or lessee of that mine has 12233
provided written notice identifying those townships to the chief 12234
at any time during the immediately preceding three years, the 12235
owner or lessee of the mine. 12236

(2)(a) The owner of the land on which a well is located who 12237
has received notice under division (C)(1)(b) of this section may 12238
plug the well and be reimbursed by the division of oil and gas 12239
resources management for the reasonable cost of plugging the well. 12240
In order to plug the well, the landowner shall submit an 12241
application to the chief on a form prescribed by the chief and 12242
approved by the technical advisory council on oil and gas created 12243
in section 1509.38 of the Revised Code. The application, at a 12244
minimum, shall require the landowner to provide the same 12245
information as is required to be included in the application for a 12246
permit to plug and abandon under section 1509.13 of the Revised 12247
Code. The application shall be accompanied by a copy of a proposed 12248
contract to plug the well prepared by a contractor regularly 12249
engaged in the business of plugging oil and gas wells. The 12250
proposed contract shall require the contractor to furnish all of 12251
the materials, equipment, work, and labor necessary to plug the 12252
well properly and shall specify the price for doing the work, 12253
including a credit for the equipment appurtenant to the well that 12254
was forfeited to the state through the operation of division 12255

(C)(2) of this section. Expenditures under division (D)(2)(a) of 12256
this section shall be consistent with the expenditures for 12257
activities described in division (D)(1) of this section. The 12258
application also shall be accompanied by the permit fee required 12259
by section 1509.13 of the Revised Code unless the chief, in the 12260
chief's discretion, waives payment of the permit fee. The 12261
application constitutes an application for a permit to plug and 12262
abandon the well for the purposes of section 1509.13 of the 12263
Revised Code. 12264

(b) Within thirty days after receiving an application and 12265
accompanying proposed contract under division (D)(2)(a) of this 12266
section, the chief shall determine whether the plugging would 12267
comply with the applicable requirements of this chapter and 12268
applicable rules adopted and orders issued under it and whether 12269
the cost of the plugging under the proposed contract is 12270
reasonable. If the chief determines that the proposed plugging 12271
would comply with those requirements and that the proposed cost of 12272
the plugging is reasonable, the chief shall notify the landowner 12273
of that determination and issue to the landowner a permit to plug 12274
and abandon the well under section 1509.13 of the Revised Code. 12275
Upon approval of the application and proposed contract, the chief 12276
shall transfer ownership of the equipment appurtenant to the well 12277
to the landowner. The chief may disapprove an application 12278
submitted under division (D)(2)(a) of this section if the chief 12279
determines that the proposed plugging would not comply with the 12280
applicable requirements of this chapter and applicable rules 12281
adopted and orders issued under it, that the cost of the plugging 12282
under the proposed contract is unreasonable, or that the proposed 12283
contract is not a bona fide, arm's length contract. 12284

(c) After receiving the chief's notice of the approval of the 12285
application and permit to plug and abandon a well under division 12286
(D)(2)(b) of this section, the landowner shall enter into the 12287

proposed contract to plug the well. 12288

(d) Upon determining that the plugging has been completed in 12289
compliance with the applicable requirements of this chapter and 12290
applicable rules adopted and orders issued under it, the chief 12291
shall reimburse the landowner for the cost of the plugging as set 12292
forth in the proposed contract approved by the chief. The 12293
reimbursement shall be paid from the oil and gas well fund. If the 12294
chief determines that the plugging was not completed in accordance 12295
with the applicable requirements, the chief shall not reimburse 12296
the landowner for the cost of the plugging, and the landowner or 12297
the contractor, as applicable, promptly shall transfer back to 12298
this state title to and possession of the equipment appurtenant to 12299
the well that previously was transferred to the landowner under 12300
division (D)(2)(b) of this section. If any such equipment was 12301
removed from the well during the plugging and sold, the landowner 12302
shall pay to the chief the proceeds from the sale of the 12303
equipment, and the chief promptly shall pay the moneys so received 12304
to the treasurer of state for deposit into the oil and gas well 12305
fund. 12306

The chief may establish an annual limit on the number of 12307
wells that may be plugged under division (D)(2) of this section or 12308
an annual limit on the expenditures to be made under that 12309
division. 12310

As used in division (D)(2) of this section, "plug" and 12311
"plugging" include the plugging of the well and the restoration of 12312
the land surface disturbed by the plugging. 12313

(E) Expenditures from the oil and gas well fund for the 12314
purpose of division (B)(2) of this section may be made pursuant to 12315
contracts entered into by the chief with persons who agree to 12316
furnish all of the materials, equipment, work, and labor as 12317
specified and provided in such a contract. The competitive bidding 12318
requirements of Chapter 153. of the Revised Code do not apply if 12319

the chief reasonably determines that an emergency situation exists 12320
requiring immediate action for the correction of the applicable 12321
health or safety risk ~~requires immediate action~~. A contract or 12322
purchase of materials for purposes of addressing the emergency 12323
situation is not subject to division (B) of section 127.16 of the 12324
Revised Code. The chief, designated representatives of the chief, 12325
and agents or employees of persons contracting with the chief 12326
under this division may enter upon any land, public or private, 12327
for the purpose of performing the work. 12328

(F) Contracts entered into by the chief under this section 12329
are not subject to ~~either~~ any of the following: 12330

(1) Chapter 4115. of the Revised Code; 12331

(2) Section 153.54 of the Revised Code, except that the 12332
contractor shall obtain and provide to the chief as a bid guaranty 12333
a surety bond or letter of credit in an amount equal to ten per 12334
cent of the amount of the contract; 12335

(3) Section 4733.17 of the Revised Code. 12336

(G) The owner of land on which a well is located who has 12337
received notice under division (C)(1)(b) of this section, in lieu 12338
of plugging the well in accordance with division (D)(2) of this 12339
section, may cause ownership of the well to be transferred to an 12340
owner who is lawfully doing business in this state and who has met 12341
the financial responsibility requirements established under 12342
section 1509.07 of the Revised Code, subject to the approval of 12343
the chief. The transfer of ownership also shall be subject to the 12344
landowner's filing the appropriate forms required under section 12345
1509.31 of the Revised Code and providing to the chief sufficient 12346
information to demonstrate the landowner's or owner's right to 12347
produce a formation or formations. That information may include a 12348
deed, a lease, or other documentation of ownership or property 12349
rights. 12350

The chief shall approve or disapprove the transfer of ownership of the well. If the chief approves the transfer, the owner is responsible for operating the well in accordance with this chapter and rules adopted under it, including, without limitation, all of the following:

(1) Filing an application with the chief under section 1509.06 of the Revised Code if the owner intends to drill deeper or produce a formation that is not listed in the records of the division for that well;

(2) Taking title to and possession of the equipment appurtenant to the well that has been identified by the chief as having been abandoned by the former owner;

(3) Complying with all applicable requirements that are necessary to drill deeper, plug the well, or plug back the well.

(H) The chief shall issue an order that requires the owner of a well to pay the actual documented costs of a corrective action that is described in division (B)(2) of this section concerning the well. The chief shall transmit the money so recovered to the treasurer of state who shall deposit the money in the state treasury to the credit of the oil and gas well fund.

(I) The chief may engage in cooperative projects under this section with any agency of this state, another state, or the United States; any other governmental agencies; or any state university or college as defined in section 3345.27 of the Revised Code. A contract entered into for purposes of a cooperative project is not subject to division (B) of section 127.16 of the Revised Code.

Sec. 1509.36. Any person adversely affected by an order by the chief of the division of oil and gas resources management may appeal to the oil and gas commission for an order vacating or

modifying the order. 12381

The person so appealing to the commission shall be known as 12382
appellant and the chief shall be known as appellee. Appellant and 12383
appellee shall be deemed to be parties to the appeal. 12384

The appeal shall be in writing and shall set forth the order 12385
complained of and the grounds upon which the appeal is based. The 12386
appeal shall be filed with the commission within thirty days after 12387
the date upon which the appellant received notice by certified 12388
mail and, for all other persons adversely affected by the order, 12389
within thirty days after the date of the order complained of. 12390
Notice of the filing of the appeal shall be filed with the chief 12391
within three days after the appeal is filed with the commission. 12392

Upon the filing of the appeal the commission promptly shall 12393
fix the time and place at which the hearing on the appeal will be 12394
held, and shall give the appellant and the chief at least ten 12395
days' written notice thereof by mail. The commission may postpone 12396
or continue any hearing upon its own motion or upon application of 12397
the appellant or of the chief. 12398

The filing of an appeal provided for in this section does not 12399
automatically suspend or stay execution of the order appealed 12400
from, but upon application by the appellant the commission may 12401
suspend or stay the execution pending determination of the appeal 12402
upon such terms as the commission considers proper. 12403

Either party to the appeal or any interested person who, 12404
pursuant to commission rules has been granted permission to 12405
appear, may submit such evidence as the commission considers 12406
admissible. 12407

For the purpose of conducting a hearing on an appeal, the 12408
commission may require the attendance of witnesses and the 12409
production of books, records, and papers, and it may, and at the 12410
request of any party it shall, issue subpoenas for witnesses or 12411

subpoenas duces tecum to compel the production of any books, 12412
records, or papers, directed to the sheriffs of the counties where 12413
the witnesses are found. The subpoenas shall be served and 12414
returned in the same manner as subpoenas in criminal cases are 12415
served and returned. The fees of sheriffs shall be the same as 12416
those allowed by the court of common pleas in criminal cases. 12417
Witnesses shall be paid the fees and mileage provided for under 12418
section 119.094 of the Revised Code. Such fees and mileage 12419
expenses incurred at the request of appellant shall be paid in 12420
advance by the appellant, and the remainder of those expenses 12421
shall be paid out of funds appropriated for the expenses of the 12422
division of oil and gas resources management. 12423

In case of disobedience or neglect of any subpoena served on 12424
any person, or the refusal of any witness to testify to any matter 12425
regarding which the witness may be lawfully interrogated, the 12426
court of common pleas of the county in which the disobedience, 12427
neglect, or refusal occurs, or any judge thereof, on application 12428
of the commission or any member thereof, shall compel obedience by 12429
attachment proceedings for contempt as in the case of disobedience 12430
of the requirements of a subpoena issued from that court or a 12431
refusal to testify therein. Witnesses at such hearings shall 12432
testify under oath, and any member of the commission may 12433
administer oaths or affirmations to persons who so testify. 12434

At the request of any party to the appeal, a ~~stenographic~~ 12435
record of the testimony and other evidence submitted shall be 12436
taken by an official court ~~shorthand~~ reporter at the expense of 12437
the party making the request ~~therefor~~ for the record. The record 12438
shall include all of the testimony and other evidence and the 12439
rulings on the admissibility thereof presented at the hearing. The 12440
commission shall pass upon the admissibility of evidence, but any 12441
party may at the time object to the admission of any evidence and 12442
except to the rulings of the commission thereon, and if the 12443

commission refuses to admit evidence the party offering same may 12444
make a proffer thereof, and such proffer shall be made a part of 12445
the record of the hearing. 12446

If upon completion of the hearing the commission finds that 12447
the order appealed from was lawful and reasonable, it shall make a 12448
written order affirming the order appealed from; if the commission 12449
finds that the order was unreasonable or unlawful, it shall make a 12450
written order vacating the order appealed from and making the 12451
order that it finds the chief should have made. Every order made 12452
by the commission shall contain a written finding by the 12453
commission of the facts upon which the order is based. 12454

Notice of the making of the order shall be given forthwith to 12455
each party to the appeal by mailing a certified copy thereof to 12456
each such party by certified mail. 12457

The order of the commission is final unless vacated by the 12458
court of common pleas of Franklin county in an appeal as provided 12459
for in section 1509.37 of the Revised Code. Sections 1509.01 to 12460
1509.37 of the Revised Code, providing for appeals relating to 12461
orders by the chief or by the commission, or relating to rules 12462
adopted by the chief, do not constitute the exclusive procedure 12463
that any person who believes the person's rights to be unlawfully 12464
affected by those sections or any official action taken thereunder 12465
must pursue in order to protect and preserve those rights, nor do 12466
those sections constitute a procedure that that person must pursue 12467
before that person may lawfully appeal to the courts to protect 12468
and preserve those rights. 12469

Sec. 1533.081. (A) As used in this section: 12470

(1) "Energy" has the same meaning as in section 1551.01 of 12471
the Revised Code. 12472

(2) "Energy facility" means a facility at which energy is 12473

produced. 12474

(B) A person operating an energy facility whose operation may 12475
result in the incidental taking of a wild animal shall obtain a 12476
permit to do so from the chief of the division of wildlife under 12477
this section. The chief shall adopt rules under section 1531.10 of 12478
the Revised Code that are necessary to administer this section. 12479

Sec. 1533.10. Except as provided in this section or division 12480
(A)(2) of section 1533.12 of the Revised Code, no person shall 12481
hunt any wild bird or wild quadruped without a hunting license. 12482
Each day that any person hunts within the state without procuring 12483
such a license constitutes a separate offense. Except as otherwise 12484
provided in this section, every applicant for a hunting license 12485
who is a resident of the state and eighteen years of age or more 12486
shall procure a resident hunting license or an apprentice resident 12487
hunting license, the fee for which shall be eighteen dollars 12488
unless the rules adopted under division (B) of section 1533.12 of 12489
the Revised Code provide for issuance of a resident hunting 12490
license to the applicant free of charge. Except as provided in 12491
rules adopted under division (B)(2) of that section, each 12492
applicant who is a resident of this state and who at the time of 12493
application is sixty-six years of age or older shall procure a 12494
special senior hunting license, the fee for which shall be 12495
one-half of the regular hunting license fee. Every applicant who 12496
is under the age of eighteen years shall procure a special youth 12497
hunting license or an apprentice youth hunting license, the fee 12498
for which shall be one-half of the regular hunting license fee. 12499

A resident of this state who owns lands in the state and the 12500
owner's children of any age and grandchildren under eighteen years 12501
of age may hunt on the lands without a hunting license. A resident 12502
of any other state who owns real property in this state, and the 12503
spouse and children living with the property owner, may hunt on 12504

that property without a license, provided that the state of 12505
residence of the real property owner allows residents of this 12506
state owning real property in that state, and the spouse and 12507
children living with the property owner, to hunt without a 12508
license. If the owner of land in this state is a limited liability 12509
company or a limited liability partnership that consists of three 12510
or fewer individual members or partners, as applicable, an 12511
individual member or partner who is a resident of this state and 12512
the member's or partner's children of any age and grandchildren 12513
under eighteen years of age may hunt on the land owned by the 12514
limited liability company or limited liability partnership without 12515
a hunting license. In addition, if the owner of land in this state 12516
is a trust that has a total of three or fewer trustees and 12517
beneficiaries, an individual who is a trustee or beneficiary and 12518
who is a resident of this state and the individual's children of 12519
any age and grandchildren under eighteen years of age may hunt on 12520
the land owned by the trust without a hunting license. The tenant 12521
and children of the tenant, residing on lands in the state, may 12522
hunt on them without a hunting license. 12523

Except as otherwise provided in division (A)(1) of section 12524
1533.12 of the Revised Code, every applicant for a hunting license 12525
who is a nonresident of the state and who is eighteen years of age 12526
or older shall procure a nonresident hunting license or an 12527
apprentice nonresident hunting license, the fee for which shall be 12528
one hundred twenty-four dollars unless the applicant is a resident 12529
of a state that is a party to an agreement under section 1533.91 12530
of the Revised Code, in which case the fee shall be eighteen 12531
dollars. Apprentice resident hunting licenses, apprentice youth 12532
hunting licenses, and apprentice nonresident hunting licenses are 12533
subject to the requirements established under section 1533.102 of 12534
the Revised Code and rules adopted pursuant to it. 12535

The chief of the division of wildlife may issue a small game 12536

12537 hunting license expiring three days from the effective date of the
12538 license to a nonresident of the state, the fee for which shall be
12539 thirty-nine dollars. No person shall take or possess deer, wild
12540 turkeys, fur-bearing animals, ducks, geese, brant, or any nongame
12541 animal while possessing only a small game hunting license. A small
12542 game hunting license or an apprentice nonresident hunting license
12543 does not authorize the taking or possessing of ducks, geese, or
12544 brant without having obtained, in addition to the small game
12545 hunting license or the apprentice nonresident hunting license, a
12546 wetlands habitat stamp as provided in section 1533.112 of the
12547 Revised Code. A small game hunting license or an apprentice
12548 nonresident hunting license does not authorize the taking or
12549 possessing of deer, wild turkeys, or fur-bearing animals. A
12550 nonresident of the state who wishes to take or possess deer, wild
12551 turkeys, or fur-bearing animals in this state shall procure,
12552 respectively, a deer or wild turkey permit as provided in section
12553 1533.11 of the Revised Code or a fur taker permit as provided in
12554 section 1533.111 of the Revised Code in addition to a nonresident
12555 hunting license, an apprentice nonresident hunting license, a
12556 special youth hunting license, or an apprentice youth hunting
12557 license, as applicable, as provided in this section.

12558 No person shall procure or attempt to procure a hunting
12559 license by fraud, deceit, misrepresentation, or any false
12560 statement.

12561 This section does not authorize the taking and possessing of
12562 deer or wild turkeys without first having obtained, in addition to
12563 the hunting license required by this section, a deer or wild
12564 turkey permit as provided in section 1533.11 of the Revised Code
12565 or the taking and possessing of ducks, geese, or brant without
12566 first having obtained, in addition to the hunting license required
12567 by this section, a wetlands habitat stamp as provided in section
12568 1533.112 of the Revised Code.

This section does not authorize the hunting or trapping of 12569
fur-bearing animals without first having obtained, in addition to 12570
a hunting license required by this section, a fur taker permit as 12571
provided in section 1533.111 of the Revised Code. 12572

No hunting license shall be issued unless it is accompanied 12573
by a written explanation of the law in section 1533.17 of the 12574
Revised Code and the penalty for its violation, including a 12575
description of terms of imprisonment and fines that may be 12576
imposed. 12577

No hunting license, other than an apprentice hunting license, 12578
shall be issued unless the applicant presents to the agent 12579
authorized to issue the license a previously held hunting license 12580
or evidence of having held such a license in content and manner 12581
approved by the chief, a certificate of completion issued upon 12582
completion of a hunter education and conservation course approved 12583
by the chief, or evidence of equivalent training in content and 12584
manner approved by the chief. A previously held apprentice hunting 12585
license does not satisfy the requirement concerning the 12586
presentation of a previously held hunting license or evidence of 12587
it. 12588

No person shall issue a hunting license, except an apprentice 12589
hunting license, to any person who fails to present the evidence 12590
required by this section. No person shall purchase or obtain a 12591
hunting license, other than an apprentice hunting license, without 12592
presenting to the issuing agent the evidence required by this 12593
section. Issuance of a hunting license in violation of the 12594
requirements of this section is an offense by both the purchaser 12595
of the illegally obtained hunting license and the clerk or agent 12596
who issued the hunting license. Any hunting license issued in 12597
violation of this section is void. 12598

The chief, with approval of the wildlife council, shall adopt 12599
rules prescribing a hunter education and conservation course for 12600

first-time hunting license buyers, other than buyers of apprentice 12601
hunting licenses, and for volunteer instructors. The course shall 12602
consist of subjects including, but not limited to, hunter safety 12603
and health, use of hunting implements, hunting tradition and 12604
ethics, the hunter and conservation, the law in section 1533.17 of 12605
the Revised Code along with the penalty for its violation, 12606
including a description of terms of imprisonment and fines that 12607
may be imposed, and other law relating to hunting. Authorized 12608
personnel of the division or volunteer instructors approved by the 12609
chief shall conduct such courses with such frequency and at such 12610
locations throughout the state as to reasonably meet the needs of 12611
license applicants. The chief shall issue a certificate of 12612
completion to each person who successfully completes the course 12613
and passes an examination prescribed by the chief. 12614

Sec. 1541.26. There is hereby created in the state treasury 12615
the parks mineral royalties fund. The fund shall consist of money 12616
deposited into it under section 1509.73 of the Revised Code and 12617
money transferred to it under section 1503.012 of the Revised 12618
Code. Any investment proceeds earned on money in the fund shall be 12619
credited to the fund. 12620

Money in the fund shall be used by the division of parks and 12621
recreation to acquire land and to pay capital costs, including 12622
equipment and repairs and renovations of facilities, that are 12623
owned by the state and administered by the division. Expenditures 12624
from the fund shall be approved by the director of natural 12625
resources. 12626

Sec. 1551.33. (A) The director of development shall appoint 12627
and fix the compensation of the director of the Ohio coal 12628
development office. The director shall serve at the pleasure of 12629
the director of development. 12630

(B) The director of the office shall do all of the following: 12631

(1) Biennially prepare and maintain the Ohio coal development 12632
agenda required under section 1551.34 of the Revised Code; 12633

(2) Propose and support policies for the office consistent 12634
with the Ohio coal development agenda and develop means to 12635
implement the agenda; 12636

(3) Initiate, undertake, and support projects to carry out 12637
the office's purposes and ensure that the projects are consistent 12638
with and meet the selection criteria established by the Ohio coal 12639
development agenda; 12640

(4) Actively encourage joint participation in and, when 12641
feasible, joint funding of the office's projects with governmental 12642
agencies, electric utilities, universities and colleges, other 12643
public or private interests, or any other person; 12644

(5) Establish a table of organization for and employ such 12645
employees and agents as are necessary for the administration and 12646
operation of the office. Any such employees shall be in the 12647
unclassified service and shall serve at the pleasure of the 12648
director of development. 12649

(6) Appoint specified members of and convene the technical 12650
advisory committee established under section 1551.35 of the 12651
Revised Code; 12652

(7) Review, with the assistance of the technical advisory 12653
committee, proposed coal research and development projects as 12654
defined in section 1555.01 of the Revised Code, and coal 12655
development projects, submitted to the office by public utilities 12656
for the purpose of section 4905.304 of the Revised Code. If the 12657
director and the advisory committee determine that any such 12658
facility or project has as its purpose the enhanced use of Ohio 12659
coal in an environmentally acceptable, cost effective manner, 12660
promotes energy conservation, is cost effective, and is 12661

environmentally sound, the director shall submit to the public 12662
utilities commission a report recommending that the commission 12663
allow the recovery of costs associated with the facility or 12664
project under section 4905.304 of the Revised Code and including 12665
the reasons for the recommendation. 12666

(8) Establish such policies, procedures, and guidelines as 12667
are necessary to achieve the office's purposes. 12668

(C) ~~The~~ With the approval of the director of development, the 12669
director of the office may exercise any of the powers and duties 12670
that the director of ~~the office~~ development considers appropriate 12671
or desirable to achieve the office's purposes, including, but not 12672
limited to, the powers and duties enumerated in sections 1551.11, 12673
1551.12, and 1551.15 of the Revised Code. 12674

Additionally, the director of the office may make loans to 12675
governmental agencies or persons for projects to carry out the 12676
office's purposes. Fees, charges, rates of interest, times of 12677
payment of interest and principal, and other terms, conditions, 12678
and provisions of the loans shall be such as the director of the 12679
office determines to be appropriate and in furtherance of the 12680
purposes for which the loans are made. The mortgage lien securing 12681
any moneys lent by the director of the office may be subordinate 12682
to the mortgage lien securing any moneys lent or invested by a 12683
financial institution, but shall be superior to that securing any 12684
moneys lent or expended by any other person. The moneys used in 12685
making the loans shall be disbursed upon order of the director of 12686
the office. 12687

Sec. 1555.02. It is hereby declared to be the public policy 12688
of this state through the operations of the Ohio coal development 12689
office under this chapter to contribute toward one or more of the 12690
following: to provide for the comfort, health, safety, and general 12691
welfare of all employees and other inhabitants of this state 12692

through research and development directed toward the discovery of 12693
new technologies or the demonstration or application of existing 12694
technologies to enable the conversion or use of Ohio coal as a 12695
fuel or chemical feedstock in an environmentally acceptable manner 12696
thereby enhancing the marketability and fostering the use of this 12697
state's vast reserves of coal, to assist in the financing of coal 12698
research and development and coal research and development 12699
projects or facilities for persons doing business in this state 12700
and educational and scientific institutions located in this state, 12701
to create or preserve jobs and employment opportunities or improve 12702
the economic welfare of the people of this state, or to assist and 12703
cooperate with such persons and educational and scientific 12704
institutions in conducting coal research and development. In 12705
furtherance of this public policy, the Ohio coal development 12706
office, with the advice of the technical advisory committee 12707
created in section 1551.35 of the Revised Code and the approval of 12708
the director of development, may make loans, guarantee loans, and 12709
make grants to persons doing business in this state or to 12710
educational or scientific institutions located in this state for 12711
coal research and development projects by such persons or 12712
educational or scientific institutions; may, with the advice of 12713
the technical advisory committee and the approval of the director 12714
of development, request the issuance of coal research and 12715
development general obligations under section 151.07 of the 12716
Revised Code to provide funds for making such loans, loan 12717
guarantees, and grants; and may, with the advice of the technical 12718
advisory committee and the approval of the director of 12719
development, expend moneys credited to the coal research and 12720
development fund created in section 1555.15 of the Revised Code 12721
for the purpose of making such loans, loan guarantees, and grants. 12722
Determinations by the director of the Ohio coal development office 12723
that coal research and development or a coal research and 12724
development facility is a coal research and development project 12725

under this chapter and is consistent with the purposes of Section 12726
15 of Article VIII, Ohio Constitution, and this chapter shall be 12727
conclusive as to the validity and enforceability of the coal 12728
research and development general obligations issued to finance 12729
such project and of the authorizations, trust agreements or 12730
indentures, loan agreements, loan guarantee agreements, or grant 12731
agreements, and other agreements made in connection therewith, all 12732
in accordance with their terms. 12733

Sec. 1555.03. For the purposes of this chapter, the director 12734
of the Ohio coal development office may: 12735

(A) With the advice of the technical advisory committee 12736
created in section 1551.35 of the Revised Code and the approval of 12737
the director of development, make loans, guarantee loans, and make 12738
grants to persons doing business in this state or to educational 12739
or scientific institutions located in this state for coal research 12740
and development projects by any such person or educational or 12741
scientific institution and adopt rules under Chapter 119. of the 12742
Revised Code for making such loans, guarantees, and grants. 12743

(B) In making loans, loan guarantees, and grants under 12744
division (A) of this section and section 1555.04 of the Revised 12745
Code, the director of the office shall ensure that an adequate 12746
portion of the total amount of those loans, loan guarantees, and 12747
grants, as determined by the director with the advice of the 12748
technical advisory committee, is used for conducting research on 12749
fundamental scientific problems related to the utilization of Ohio 12750
coal and shall ensure, to the maximum feasible extent, joint 12751
financial participation by the federal government or other 12752
investors or interested parties in conjunction with any such loan, 12753
loan guarantee, or grant. The director, in each grant agreement or 12754
contract under division (A) of this section, loan contract or 12755
agreement under this division or section 1555.04 of the Revised 12756

Code, and contract of guarantee under section 1555.05 of the 12757
Revised Code, shall require that the facility or project be 12758
maintained and kept in good condition and repair by the person or 12759
educational or scientific institution to whom the grant or loan 12760
was made or for whom the guarantee was made. 12761

(C) From time to time, with the advice of the technical 12762
advisory committee and the approval of the director of 12763
development, request the issuance of coal research and development 12764
general obligations under section 151.07 of the Revised Code, for 12765
any of the purposes set forth in Section 15 of Article VIII, Ohio 12766
Constitution, and subject to the limitations therein upon the 12767
aggregate total amount of obligations that may be outstanding at 12768
any time. 12769

(D) Include as a condition of any loan, loan guarantee, or 12770
grant contract or agreement with any such person or educational or 12771
scientific institution that the director of the office receive, in 12772
addition to payments of principal and interest on any such loan or 12773
service charges for any such guarantee, as appropriate, as 12774
authorized by Section 15~~7~~ of Article VIII, Ohio Constitution, a 12775
reasonable royalty or portion of the income or profits arising out 12776
of the developments, discoveries, or inventions, including patents 12777
or copyrights, that result in whole or in part from coal research 12778
and development projects conducted under any such contract or 12779
agreement, in such amounts and for such period of years as may be 12780
negotiated and provided by the contract or agreement in advance of 12781
the making of the grant, loan, or loan guarantee. Moneys received 12782
by the director of the office under this section may be credited 12783
to the coal research and development bond service fund or used to 12784
make additional loans, loan guarantees, grants, or agreements 12785
under this section. 12786

(E) Employ managers, superintendents, and other employees and 12787
retain or contract with consulting engineers, financial 12788

consultants, accounting experts, architects, and such other 12789
consultants and independent contractors as are necessary in the 12790
judgment of the director of the office to carry out this chapter, 12791
and fix the compensation thereof. 12792

(F) Receive and accept from any federal agency, subject to 12793
the approval of the governor, grants for or in aid of the 12794
construction or operation of any coal research and development 12795
project or for coal research and development, and receive and 12796
accept aid or contributions from any source of money, property, 12797
labor, or other things of value, to be held, used, and applied 12798
only for the purposes for which such grants and contributions are 12799
made. 12800

(G) Purchase fire and extended coverage and liability 12801
insurance for any coal research and development project, insurance 12802
protecting the office and its officers and employees against 12803
liability for damage to property or injury to or death of persons 12804
arising from its operations, and any other insurance the director 12805
of the office determines necessary or proper under this chapter. 12806
Any moneys received by the director from the proceeds of any such 12807
insurance with respect to a coal research and development project 12808
and any moneys received by the director from the proceeds of any 12809
settlement, judgment, foreclosure, or other insurance with respect 12810
to a coal research and development project or facility shall be 12811
credited to the coal research and development bond service fund. 12812

(H) In the exercise of the powers of the director of the 12813
office under this chapter, call to the director's assistance, 12814
temporarily, from time to time, any engineers, technical experts, 12815
financial experts, and other employees in any state department, 12816
agency, or commission, or in the Ohio state university, or other 12817
educational institutions financed wholly or partially by this 12818
state for purposes of assisting the director of the office with 12819
reviewing and evaluating applications for financial assistance 12820

under this chapter, monitoring performance of coal research and 12821
development projects receiving financial assistance under this 12822
chapter, and reviewing and evaluating the progress and findings of 12823
those projects. Such engineers, experts, and employees shall not 12824
receive any additional compensation over that which they receive 12825
from the department, agency, commission, or educational 12826
institution by which they are employed, but they shall be 12827
reimbursed for their actual and necessary expenses incurred while 12828
working under the direction of the director. 12829

(I) Do all acts necessary or proper to carry out the powers 12830
expressly granted in this chapter. 12831

Sec. 1555.04. (A) With respect to coal research and 12832
development projects financed wholly or partially from a loan or 12833
loan guarantee under this chapter, the director of the Ohio coal 12834
development office, in addition to other powers under this 12835
chapter, with the advice of the technical advisory committee 12836
created in section 1551.35 of the Revised Code and the approval of 12837
the director of development, may enter into loan agreements, 12838
accept notes and other forms of obligation to evidence such 12839
indebtedness and mortgages, liens, pledges, assignments, or other 12840
security interests to secure such indebtedness, which may be prior 12841
or subordinate to or on a parity with other indebtedness, 12842
obligations, mortgages, pledges, assignments, other security 12843
interests, or liens or encumbrances, and take such actions as the 12844
director of the office considers appropriate to protect such 12845
security and safeguard against losses, including, without 12846
limitation, foreclosure and the bidding upon and purchase of 12847
property upon foreclosure or other sale. 12848

(B) The authority granted by this section is cumulative and 12849
supplementary to all other authority granted in this chapter. The 12850
authority granted by this section does not alter or impair any 12851

similar authority granted elsewhere in this chapter with respect 12852
to other projects. 12853

Sec. 1555.05. (A) Subject to any limitations as to aggregate 12854
amounts thereof that may from time to time be prescribed by the 12855
general assembly and to other applicable provisions of this 12856
chapter, and subject to the one-hundred-million-dollar limitation 12857
provided in Section 15 of Article VIII, Ohio Constitution, the 12858
director of the Ohio coal development office, on behalf of this 12859
state, with the advice of the technical advisory committee created 12860
in section 1551.35 of the Revised Code and the approval of the 12861
director of development, may enter into contracts to guarantee the 12862
repayment or payment of the unpaid principal amount of loans made 12863
to pay the costs of coal research and development projects. 12864

(B) The contract of guarantee may make provision for the 12865
conditions of, time for, and manner of fulfillment of the 12866
guarantee commitment, subrogation of this state to the rights of 12867
the parties guaranteed and exercise of such parties' rights by the 12868
state, giving the state the option of making payment of the 12869
principal amount guaranteed in one or more installments and, if 12870
deferred, to pay interest thereon from the source specified in 12871
division (A) of this section, and any other terms or conditions 12872
customary to such guarantees and as the director of the office may 12873
approve, and may contain provisions for securing the guarantee in 12874
the manner consistent with this section, covenants on behalf of 12875
this state to issue obligations under section 1555.08 of the 12876
Revised Code to provide moneys to fulfill such guarantees and 12877
covenants, and covenants restricting the aggregate amount of 12878
guarantees that may be contracted under this section and 12879
obligations that may be issued under section 151.07 of the Revised 12880
Code, and terms pertinent to either, to better secure the parties 12881
guaranteed. 12882

(C) The director of the office may fix service charges for 12883
making a guarantee. Such charges shall be payable at such times 12884
and place and in such amounts and manner as may be prescribed by 12885
the director. Moneys received from such charges shall be credited 12886
to the coal research and development bond service fund. 12887

(D) Any guaranteed parties under this section, by any 12888
suitable form of legal proceedings and except to the extent that 12889
their rights are restricted by the guarantee documents, may 12890
protect and enforce any rights under the laws of this state or 12891
granted by such guarantee or guarantee documents. Such rights 12892
include the right to compel the performance of all duties of the 12893
office required by this section or the guarantee or guarantee 12894
documents; and in the event of default with respect to the payment 12895
of any guarantees, to apply to a court having jurisdiction of the 12896
cause to appoint a receiver to receive and administer the moneys 12897
pledged to such guarantee with full power to pay, and to provide 12898
for payment of, such guarantee, and with such powers, subject to 12899
the direction of the court, as are accorded receivers in general 12900
equity cases, excluding any power to pledge or apply additional 12901
revenues or receipts or other income or moneys of this state. Each 12902
duty of the office and its director and employees required or 12903
undertaken under this section or a guarantee made under this 12904
section is hereby established as a duty of the office and of its 12905
director and each such employee having authority to perform such 12906
duty, specifically enjoined by the law resulting from an office, 12907
trust, or station within the meaning of section 2731.01 of the 12908
Revised Code. The persons who are at the time the director of the 12909
office, or its employees, are not liable in their personal 12910
capacities on any guarantees or contracts to make guarantees by 12911
the director. 12912

Sec. 1555.06. Upon application by the director of the Ohio 12913
coal development office with the approval of the director of 12914

development, the controlling board, from appropriations available 12915
to the board, may provide funds for surveys or studies by the 12916
office of any proposed coal research and development project 12917
subject to repayment by the office from funds available to it, 12918
within the time fixed by the board. Funds to be repaid shall be 12919
charged by the office to the appropriate coal research and 12920
development project and the amount thereof shall be a cost of the 12921
project. This section does not abrogate the authority of the 12922
controlling board to otherwise provide funds for use by the office 12923
in the exercise of the powers granted to it by this chapter. 12924

Sec. 1571.14. Any person claiming to be aggrieved or 12925
adversely affected by an order of the chief of the division of oil 12926
and gas resources management made as provided in section 1571.10 12927
or 1571.16 of the Revised Code may appeal to the director of 12928
natural resources for an order vacating or modifying such order. 12929
Upon receipt of the appeal, the director shall appoint an 12930
individual who has knowledge of the laws and rules regarding the 12931
underground storage of gas and who shall act as a hearing officer 12932
in accordance with Chapter 119. of the Revised Code in hearing the 12933
appeal. 12934

The person appealing to the director shall be known as 12935
appellant and the chief shall be known as appellee. The appellant 12936
and the appellee shall be deemed parties to the appeal. 12937

The appeal shall be in writing and shall set forth the order 12938
complained of and the grounds upon which the appeal is based. The 12939
appeal shall be filed with the director within thirty days after 12940
the date upon which appellant received notice by registered mail 12941
of the making of the order complained of, as required by section 12942
1571.10 of the Revised Code. Notice of the filing of such appeal 12943
shall be delivered by appellant to the chief within three days 12944
after the appeal is filed with the director. 12945

Within seven days after receipt of the notice of appeal the chief shall prepare and certify to the director at the expense of appellant a complete transcript of the proceedings out of which the appeal arises, including a transcript of the testimony submitted to the chief.

Upon the filing of the appeal the director shall fix the time and place at which the hearing on the appeal will be held, and shall give appellant and the chief at least ten days' written notice thereof by mail. The director may postpone or continue any hearing upon the director's own motion or upon application of appellant or of the chief.

The filing of an appeal provided for in this section does not automatically suspend or stay execution of the order appealed from, but upon application by the appellant the director may suspend or stay such execution pending determination of the appeal upon such terms as the director deems proper.

The hearing officer appointed by the director shall hear the appeal de novo, and either party to the appeal may submit such evidence as the hearing officer deems admissible.

For the purpose of conducting a hearing on an appeal, the hearing officer may require the attendance of witnesses and the production of books, records, and papers, and may, and at the request of any party shall, issue subpoenas for witnesses or subpoenas duces tecum to compel the production of any books, records, or papers, directed to the sheriffs of the counties where such witnesses are found, which subpoenas shall be served and returned in the same manner as subpoenas in criminal cases are served and returned. The fees of sheriffs shall be the same as those allowed by the court of common pleas in criminal cases. Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code. Such fee and mileage expenses incurred at the request of appellant shall be paid in advance by

appellant, and the remainder of such expenses shall be paid out of 12978
funds appropriated for the expenses of the division of oil and gas 12979
resources management. 12980

In case of disobedience or neglect of any subpoena served on 12981
any person, or the refusal of any witness to testify to any matter 12982
regarding which the witness may be lawfully interrogated, the 12983
court of common pleas of the county in which such disobedience, 12984
neglect, or refusal occurs, or any judge thereof, on application 12985
of the director, shall compel obedience by attachment proceedings 12986
for contempt as in the case of disobedience of the requirements of 12987
a subpoena issued from such court or a refusal to testify therein. 12988
Witnesses at such hearings shall testify under oath, and the 12989
hearing officer may administer oaths or affirmations to persons 12990
who so testify. 12991

At the request of any party to the appeal, a ~~stenographic~~ 12992
record of the testimony and other evidence submitted shall be 12993
taken by an official court ~~shorthand~~ reporter at the expense of 12994
the party making the request ~~therefor~~ for the record. The record 12995
shall include all of the testimony and other evidence and the 12996
rulings on the admissibility thereof presented at the hearing. The 12997
hearing officer shall pass upon the admissibility of evidence, but 12998
any party may at the time object to the admission of any evidence 12999
and except to the ruling of the hearing officer thereon, and if 13000
the hearing officer refuses to admit evidence, the party offering 13001
same may make a proffer thereof, and such proffer shall be made a 13002
part of the record of such hearing. 13003

If upon completion of the hearing the hearing officer finds 13004
that the order appealed from was lawful and reasonable, the 13005
hearing officer shall make a written order affirming the order 13006
appealed from. If the hearing officer finds that such order was 13007
unreasonable or unlawful, the hearing officer shall make a written 13008
order vacating the order appealed from and making the order that 13009

it finds the chief should have made. Every order made by the 13010
hearing officer shall contain a written finding by the hearing 13011
officer of the facts upon which the order is based. Notice of the 13012
making of such order shall be given forthwith to each party to the 13013
appeal by mailing a certified copy thereof to each such party by 13014
registered mail. 13015

Sec. 1707.08. (A) The transactions enumerated in section 13016
1707.06 of the Revised Code may be consummated on compliance with 13017
this section and section 1707.11 of the Revised Code. 13018

(B) A description, verified either by the oath of the 13019
individual filing it or of any individual having knowledge of the 13020
facts, shall be filed with the division of securities by the 13021
issuer, or by a majority of the incorporators of the issuer prior 13022
to election of officers if it is an incorporated issuer, or by a 13023
licensed dealer, which description shall be on forms prescribed by 13024
the division and shall set forth: 13025

(1) The name of the issuer; 13026

(2) A brief description of the securities; 13027

(3) The amount of the securities to be offered after the 13028
filing of the description for sale in this state and, if all the 13029
securities are not to be offered by the person filing the 13030
description, then the respective amounts to be offered by others, 13031
so far as those amounts are known, and the names and addresses of 13032
the other offerors; 13033

(4) A brief statement of the facts which show that the 13034
securities are the subject matter of a transaction enumerated in 13035
section 1707.06 of the Revised Code; 13036

(5) The price at which the securities are to be offered for 13037
sale. 13038

(C) The individual who executes the application for 13039

registration by description on behalf of the applicant shall state 13040
the individual's relationship to the applicant and certify all of 13041
the following: 13042

(1) The individual has executed the application on behalf of 13043
the applicant. 13044

(2) The individual is fully authorized to execute and file 13045
the application on behalf of the applicant. 13046

(3) The individual is familiar with the applicant's 13047
application. 13048

(4) To the best of the individual's knowledge, information, 13049
and belief, the statements made in the application are true, and 13050
the documents submitted with the application are true copies of 13051
the original documents. 13052

(D) A registration by description is effective seven business 13053
days after the division receives the description on applicable 13054
forms, together with a any filing fee ~~of fifty dollars~~ required
under this division, if no proceeding is pending under section 13055
1707.13 or 1707.131 of the Revised Code. However, the division may 13056
permit an earlier effective date by rule or by issuing a 13057
certificate of acknowledgment for the registration by description. 13058
13059

For an offering that exceeds fifty thousand dollars, a filing 13060
fee of fifty dollars shall be submitted with the registration by
description. 13061
13062

(E) In order to correct errors or omissions, a registration 13063
by description may be amended by the person that originally filed 13064
it, by the filing, in the same manner as in the case of an 13065
original registration by description, of an amended registration 13066
by description or of an amendment of the original registration by 13067
description. 13068

(F) When transactions in any securities enumerated in section 13069

1707.06 of the Revised Code have been registered and the fees 13070
prescribed by this section have been paid, the transactions may be 13071
consummated so long as the registration remains in full force. 13072

Sec. 1707.391. When any securities have been sold in reliance 13073
upon division (Q), (W), (X), or (Y) of section 1707.03 of the 13074
Revised Code, section 1707.08 of the Revised Code, or any other 13075
section of this chapter that the division of securities may 13076
specify by rule, but such reliance was improper because the 13077
required filings were not timely or properly made due to excusable 13078
neglect, upon the effective date of an application made to the 13079
division and payment of ~~the required~~ any applicable fee, if 13080
required and not already paid, ~~plus~~ and upon payment of a penalty 13081
fee equal to the greater of the required fee or one hundred 13082
dollars, the sale of the securities shall be deemed exempt, 13083
qualified, or registered, as though timely and properly filed. The 13084
application shall become effective upon the expiration of fourteen 13085
days after the date of the filing in question if prior thereto the 13086
division did not give notice to the applicant that the application 13087
was denied based on a finding of lack of excusable neglect. The 13088
division shall promptly adopt and promulgate rules establishing 13089
provisions defining excusable neglect and otherwise establishing 13090
reasonable standards for determining excusable neglect. 13091

The effectiveness of an application under this section does 13092
not relieve anyone who has, other than for excusable neglect, 13093
violated sections 1707.01 to 1707.45 of the Revised Code, or any 13094
previous law in force at the time of sale, from prosecution 13095
thereunder. 13096

Sec. 1733.47. Whenever the approval of the superintendent of 13097
credit unions is required under this chapter, or under an order or 13098
supervisory action issued or taken under this chapter, for a 13099
person to serve as an organizer, incorporator, director, or 13100

executive officer of a credit union, or to otherwise participate 13101
in the management of a credit union, the superintendent shall 13102
request the superintendent of the bureau of criminal 13103
identification and investigation, or a vendor approved by the 13104
bureau, to conduct a criminal records check based on the person's 13105
fingerprints in accordance with ~~division (A)(14)~~ of section 13106
109.572 of the Revised Code. The superintendent of credit unions 13107
shall request that criminal record information from the federal 13108
bureau of investigation be obtained as part of the criminal 13109
records check. Any fee required under division (C)(3) of section 13110
109.572 of the Revised Code shall be paid by the person who is the 13111
subject of the request. 13112

Sec. 1751.01. As used in this chapter: 13113

(A)(1) "Basic health care services" means the following 13114
services when medically necessary: 13115

(a) Physician's services, except when such services are 13116
supplemental under division (B) of this section; 13117

(b) Inpatient hospital services; 13118

(c) Outpatient medical services; 13119

(d) Emergency health services; 13120

(e) Urgent care services; 13121

(f) Diagnostic laboratory services and diagnostic and 13122
therapeutic radiologic services; 13123

(g) Diagnostic and treatment services, other than 13124
prescription drug services, for biologically based mental 13125
illnesses; 13126

(h) Preventive health care services, including, but not 13127
limited to, voluntary family planning services, infertility 13128
services, periodic physical examinations, prenatal obstetrical 13129

care, and well-child care; 13130

(i) Routine patient care for patients enrolled in an eligible 13131
cancer clinical trial pursuant to section 3923.80 of the Revised 13132
Code. 13133

"Basic health care services" does not include experimental 13134
procedures. 13135

Except as provided by divisions (A)(2) and (3) of this 13136
section in connection with the offering of coverage for diagnostic 13137
and treatment services for biologically based mental illnesses, a 13138
health insuring corporation shall not offer coverage for a health 13139
care service, defined as a basic health care service by this 13140
division, unless it offers coverage for all listed basic health 13141
care services. However, this requirement does not apply to the 13142
coverage of beneficiaries enrolled in medicare pursuant to a 13143
medicare contract, or to the coverage of beneficiaries enrolled in 13144
the federal employee health benefits program pursuant to 5 13145
U.S.C.A. 8905, or to the coverage of medicaid recipients, or to 13146
the coverage of beneficiaries under any federal health care 13147
program regulated by a federal regulatory body, or to the coverage 13148
of beneficiaries under any contract covering officers or employees 13149
of the state that has been entered into by the department of 13150
administrative services. 13151

(2) A health insuring corporation may offer coverage for 13152
diagnostic and treatment services for biologically based mental 13153
illnesses without offering coverage for all other basic health 13154
care services. A health insuring corporation may offer coverage 13155
for diagnostic and treatment services for biologically based 13156
mental illnesses alone or in combination with one or more 13157
supplemental health care services. However, a health insuring 13158
corporation that offers coverage for any other basic health care 13159
service shall offer coverage for diagnostic and treatment services 13160
for biologically based mental illnesses in combination with the 13161

offer of coverage for all other listed basic health care services. 13162

(3) A health insuring corporation that offers coverage for 13163
basic health care services is not required to offer coverage for 13164
diagnostic and treatment services for biologically based mental 13165
illnesses in combination with the offer of coverage for all other 13166
listed basic health care services if all of the following apply: 13167

(a) The health insuring corporation submits documentation 13168
certified by an independent member of the American academy of 13169
actuaries to the superintendent of insurance showing that incurred 13170
claims for diagnostic and treatment services for biologically 13171
based mental illnesses for a period of at least six months 13172
independently caused the health insuring corporation's costs for 13173
claims and administrative expenses for the coverage of basic 13174
health care services to increase by more than one per cent per 13175
year. 13176

(b) The health insuring corporation submits a signed letter 13177
from an independent member of the American academy of actuaries to 13178
the superintendent of insurance opining that the increase in costs 13179
described in division (A)(3)(a) of this section could reasonably 13180
justify an increase of more than one per cent in the annual 13181
premiums or rates charged by the health insuring corporation for 13182
the coverage of basic health care services. 13183

(c) The superintendent of insurance makes the following 13184
determinations from the documentation and opinion submitted 13185
pursuant to divisions (A)(3)(a) and (b) of this section: 13186

(i) Incurred claims for diagnostic and treatment services for 13187
biologically based mental illnesses for a period of at least six 13188
months independently caused the health insuring corporation's 13189
costs for claims and administrative expenses for the coverage of 13190
basic health care services to increase by more than one per cent 13191
per year. 13192

(ii) The increase in costs reasonably justifies an increase 13193
of more than one per cent in the annual premiums or rates charged 13194
by the health insuring corporation for the coverage of basic 13195
health care services. 13196

Any determination made by the superintendent under this 13197
division is subject to Chapter 119. of the Revised Code. 13198

(B)(1) "Supplemental health care services" means any health 13199
care services other than basic health care services that a health 13200
insuring corporation may offer, alone or in combination with 13201
either basic health care services or other supplemental health 13202
care services, and includes: 13203

(a) Services of facilities for intermediate or long-term 13204
care, or both; 13205

(b) Dental care services; 13206

(c) Vision care and optometric services including lenses and 13207
frames; 13208

(d) Podiatric care or foot care services; 13209

(e) Mental health services, excluding diagnostic and 13210
treatment services for biologically based mental illnesses; 13211

(f) Short-term outpatient evaluative and crisis-intervention 13212
mental health services; 13213

(g) Medical or psychological treatment and referral services 13214
for alcohol and drug abuse or addiction; 13215

(h) Home health services; 13216

(i) Prescription drug services; 13217

(j) Nursing services; 13218

(k) Services of a dietitian licensed under Chapter 4759. of 13219
the Revised Code; 13220

(l) Physical therapy services; 13221

(m) Chiropractic services;	13222
(n) Any other category of services approved by the superintendent of insurance.	13223 13224
(2) If a health insuring corporation offers prescription drug services under this division, the coverage shall include prescription drug services for the treatment of biologically based mental illnesses on the same terms and conditions as other physical diseases and disorders.	13225 13226 13227 13228 13229
(C) "Specialty health care services" means one of the supplemental health care services listed in division (B) of this section, when provided by a health insuring corporation on an outpatient-only basis and not in combination with other supplemental health care services.	13230 13231 13232 13233 13234
(D) "Biologically based mental illnesses" means schizophrenia, schizoaffective disorder, major depressive disorder, bipolar disorder, paranoia and other psychotic disorders, obsessive-compulsive disorder, and panic disorder, as these terms are defined in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association.	13235 13236 13237 13238 13239 13240 13241
(E) "Closed panel plan" means a health care plan that requires enrollees to use participating providers.	13242 13243
(F) "Compensation" means remuneration for the provision of health care services, determined on other than a fee-for-service or discounted-fee-for-service basis.	13244 13245 13246
(G) "Contractual periodic prepayment" means the formula for determining the premium rate for all subscribers of a health insuring corporation.	13247 13248 13249
(H) "Corporation" means a corporation formed under Chapter 1701. or 1702. of the Revised Code or the similar laws of another	13250 13251

state. 13252

(I) "Emergency health services" means those health care 13253
services that must be available on a seven-days-per-week, 13254
twenty-four-hours-per-day basis in order to prevent jeopardy to an 13255
enrollee's health status that would occur if such services were 13256
not received as soon as possible, and includes, where appropriate, 13257
provisions for transportation and indemnity payments or service 13258
agreements for out-of-area coverage. 13259

(J) "Enrollee" means any natural person who is entitled to 13260
receive health care benefits provided by a health insuring 13261
corporation. 13262

(K) "Evidence of coverage" means any certificate, agreement, 13263
policy, or contract issued to a subscriber that sets out the 13264
coverage and other rights to which such person is entitled under a 13265
health care plan. 13266

(L) "Health care facility" means any facility, except a 13267
health care practitioner's office, that provides preventive, 13268
diagnostic, therapeutic, acute convalescent, rehabilitation, 13269
mental health, mental retardation, intermediate care, or skilled 13270
nursing services. 13271

(M) "Health care services" means basic, supplemental, and 13272
specialty health care services. 13273

(N) "Health delivery network" means any group of providers or 13274
health care facilities, or both, or any representative thereof, 13275
that have entered into an agreement to offer health care services 13276
in a panel rather than on an individual basis. 13277

(O) "Health insuring corporation" means a corporation, as 13278
defined in division (H) of this section, that, pursuant to a 13279
policy, contract, certificate, or agreement, pays for, reimburses, 13280
or provides, delivers, arranges for, or otherwise makes available, 13281
basic health care services, supplemental health care services, or 13282

specialty health care services, or a combination of basic health 13283
care services and either supplemental health care services or 13284
specialty health care services, through either an open panel plan 13285
or a closed panel plan. 13286

"Health insuring corporation" does not include a limited 13287
liability company formed pursuant to Chapter 1705. of the Revised 13288
Code, an insurer licensed under Title XXXIX of the Revised Code if 13289
that insurer offers only open panel plans under which all 13290
providers and health care facilities participating receive their 13291
compensation directly from the insurer, a corporation formed by or 13292
on behalf of a political subdivision or a department, office, or 13293
institution of the state, or a public entity formed by or on 13294
behalf of a board of county commissioners, a county board of 13295
developmental disabilities, an alcohol and drug addiction services 13296
board, a board of alcohol, drug addiction, and mental health 13297
services, or a community mental health board, as those terms are 13298
used in Chapters 340. and 5126. of the Revised Code. Except as 13299
provided by division (D) of section 1751.02 of the Revised Code, 13300
or as otherwise provided by law, no board, commission, agency, or 13301
other entity under the control of a political subdivision may 13302
accept insurance risk in providing for health care services. 13303
However, nothing in this division shall be construed as 13304
prohibiting such entities from purchasing the services of a health 13305
insuring corporation or a third-party administrator licensed under 13306
Chapter 3959. of the Revised Code. 13307

(P) "Intermediary organization" means a health delivery 13308
network or other entity that contracts with licensed health 13309
insuring corporations or self-insured employers, or both, to 13310
provide health care services, and that enters into contractual 13311
arrangements with other entities for the provision of health care 13312
services for the purpose of fulfilling the terms of its contracts 13313
with the health insuring corporations and self-insured employers. 13314

(Q) "Intermediate care" means residential care above the level of room and board for patients who require personal assistance and health-related services, but who do not require skilled nursing care.

(R) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

(S) "Medical record" means the personal information that relates to an individual's physical or mental condition, medical history, or medical treatment.

(T) "Medicare" means the program established under Title XVIII of the "Social Security Act" 49 Stat. 620 (1935), 42 U.S.C. 1395, as amended.

(U)(1) "Open panel plan" means a health care plan that provides incentives for enrollees to use participating providers and that also allows enrollees to use providers that are not participating providers.

(2) No health insuring corporation may offer an open panel plan, unless the health insuring corporation is also licensed as an insurer under Title XXXIX of the Revised Code, the health insuring corporation, on June 4, 1997, holds a certificate of authority or license to operate under Chapter 1736. or 1740. of the Revised Code, or an insurer licensed under Title XXXIX of the Revised Code is responsible for the out-of-network risk as evidenced by both an evidence of coverage filing under section 1751.11 of the Revised Code and a policy and certificate filing under section 3923.02 of the Revised Code.

(V) "Osteopathic hospital" means a hospital registered under section 3701.07 of the Revised Code that advocates osteopathic principles and the practice and perpetuation of osteopathic medicine by doing any of the following:

(1) Maintaining a department or service of osteopathic

medicine or a committee on the utilization of osteopathic principles and methods, under the supervision of an osteopathic physician; 13346
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(2) Maintaining an active medical staff, the majority of which is comprised of osteopathic physicians; 13349
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(3) Maintaining a medical staff executive committee that has osteopathic physicians as a majority of its members. 13351
13352

(W) "Panel" means a group of providers or health care facilities that have joined together to deliver health care services through a contractual arrangement with a health insuring corporation, employer group, or other payor. 13353
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~~(W)~~(X) "Person" has the same meaning as in section 1.59 of the Revised Code, and, unless the context otherwise requires, includes any insurance company holding a certificate of authority under Title XXXIX of the Revised Code, any subsidiary and affiliate of an insurance company, and any government agency. 13357
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~~(X)~~(Y) "Premium rate" means any set fee regularly paid by a subscriber to a health insuring corporation. A "premium rate" does not include a one-time membership fee, an annual administrative fee, or a nominal access fee, paid to a managed health care system under which the recipient of health care services remains solely responsible for any charges accessed for those services by the provider or health care facility. 13362
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~~(Y)~~(Z) "Primary care provider" means a provider that is designated by a health insuring corporation to supervise, coordinate, or provide initial care or continuing care to an enrollee, and that may be required by the health insuring corporation to initiate a referral for specialty care and to maintain supervision of the health care services rendered to the enrollee. 13369
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~~(Z)~~(AA) "Provider" means any natural person or partnership of 13376

natural persons who are licensed, certified, accredited, or 13377
otherwise authorized in this state to furnish health care 13378
services, or any professional association organized under Chapter 13379
1785. of the Revised Code, provided that nothing in this chapter 13380
or other provisions of law shall be construed to preclude a health 13381
insuring corporation, health care practitioner, or organized 13382
health care group associated with a health insuring corporation 13383
from employing certified nurse practitioners, certified nurse 13384
anesthetists, clinical nurse specialists, certified nurse 13385
midwives, dietitians, physician assistants, dental assistants, 13386
dental hygienists, optometric technicians, or other allied health 13387
personnel who are licensed, certified, accredited, or otherwise 13388
authorized in this state to furnish health care services. 13389

~~(AA)~~(BB) "Provider sponsored organization" means a 13390
corporation, as defined in division (H) of this section, that is 13391
at least eighty per cent owned or controlled by one or more 13392
hospitals, as defined in section 3727.01 of the Revised Code, or 13393
one or more physicians licensed to practice medicine or surgery or 13394
osteopathic medicine and surgery under Chapter 4731. of the 13395
Revised Code, or any combination of such physicians and hospitals. 13396
Such control is presumed to exist if at least eighty per cent of 13397
the voting rights or governance rights of a provider sponsored 13398
organization are directly or indirectly owned, controlled, or 13399
otherwise held by any combination of the physicians and hospitals 13400
described in this division. 13401

~~(BB)~~(CC) "Solicitation document" means the written materials 13402
provided to prospective subscribers or enrollees, or both, and 13403
used for advertising and marketing to induce enrollment in the 13404
health care plans of a health insuring corporation. 13405

~~(CC)~~(DD) "Subscriber" means a person who is responsible for 13406
making payments to a health insuring corporation for participation 13407
in a health care plan, or an enrollee whose employment or other 13408

status is the basis of eligibility for enrollment in a health 13409
insuring corporation. 13410

~~(DD)~~(EE) "Urgent care services" means those health care 13411
services that are appropriately provided for an unforeseen 13412
condition of a kind that usually requires medical attention 13413
without delay but that does not pose a threat to the life, limb, 13414
or permanent health of the injured or ill person, and may include 13415
such health care services provided out of the health insuring 13416
corporation's approved service area pursuant to indemnity payments 13417
or service agreements. 13418

Sec. 1751.02. (A) Notwithstanding any law in this state to 13419
the contrary, any corporation, as defined in section 1751.01 of 13420
the Revised Code, may apply to the superintendent of insurance for 13421
a certificate of authority to establish and operate a health 13422
insuring corporation. If the corporation applying for a 13423
certificate of authority is a foreign corporation domiciled in a 13424
state without laws similar to those of this chapter, the 13425
corporation must form a domestic corporation to apply for, obtain, 13426
and maintain a certificate of authority under this chapter. 13427

(B) No person shall establish, operate, or perform the 13428
services of a health insuring corporation in this state without 13429
obtaining a certificate of authority under this chapter. 13430

(C) Except as provided by division (D) of this section, no 13431
political subdivision or department, office, or institution of 13432
this state, or corporation formed by or on behalf of any political 13433
subdivision or department, office, or institution of this state, 13434
shall establish, operate, or perform the services of a health 13435
insuring corporation. Nothing in this section shall be construed 13436
to preclude a board of county commissioners, a county board of 13437
developmental disabilities, an alcohol and drug addiction services 13438
board, a board of alcohol, drug addiction, and mental health 13439

services, or a community mental health board, or a public entity 13440
formed by or on behalf of any of these boards, from using managed 13441
care techniques in carrying out the board's or public entity's 13442
duties pursuant to the requirements of Chapters 307., 329., 340., 13443
and 5126. of the Revised Code. However, no such board or public 13444
entity may operate so as to compete in the private sector with 13445
health insuring corporations holding certificates of authority 13446
under this chapter. 13447

(D) A corporation formed by or on behalf of a publicly owned, 13448
operated, or funded hospital or health care facility may apply to 13449
the superintendent for a certificate of authority under division 13450
(A) of this section to establish and operate a health insuring 13451
corporation. 13452

(E) A health insuring corporation shall operate in this state 13453
in compliance with this chapter and Chapter 1753. of the Revised 13454
Code, ~~and with sections 3702.51 to 3702.62 of the Revised Code,~~ 13455
and shall operate in conformity with its filings with the 13456
superintendent under this chapter, including filings made pursuant 13457
to sections 1751.03, 1751.11, 1751.12, and 1751.31 of the Revised 13458
Code. 13459

(F) An insurer licensed under Title XXXIX of the Revised Code 13460
need not obtain a certificate of authority as a health insuring 13461
corporation to offer an open panel plan as long as the providers 13462
and health care facilities participating in the open panel plan 13463
receive their compensation directly from the insurer. If the 13464
providers and health care facilities participating in the open 13465
panel plan receive their compensation from any person other than 13466
the insurer, or if the insurer offers a closed panel plan, the 13467
insurer must obtain a certificate of authority as a health 13468
insuring corporation. 13469

(G) An intermediary organization need not obtain a 13470
certificate of authority as a health insuring corporation, 13471

regardless of the method of reimbursement to the intermediary 13472
organization, as long as a health insuring corporation or a 13473
self-insured employer maintains the ultimate responsibility to 13474
assure delivery of all health care services required by the 13475
contract between the health insuring corporation and the 13476
subscriber and the laws of this state or between the self-insured 13477
employer and its employees. 13478

Nothing in this section shall be construed to require any 13479
health care facility, provider, health delivery network, or 13480
intermediary organization that contracts with a health insuring 13481
corporation or self-insured employer, regardless of the method of 13482
reimbursement to the health care facility, provider, health 13483
delivery network, or intermediary organization, to obtain a 13484
certificate of authority as a health insuring corporation under 13485
this chapter, unless otherwise provided, in the case of contracts 13486
with a self-insured employer, by operation of the "Employee 13487
Retirement Income Security Act of 1974," 88 Stat. 829, 29 U.S.C.A. 13488
1001, as amended. 13489

(H) Any health delivery network doing business in this state, 13490
including any health delivery network that is functioning as an 13491
intermediary organization doing business in this state, that is 13492
not required to obtain a certificate of authority under this 13493
chapter shall certify to the superintendent annually, not later 13494
than the first day of July, and shall provide a statement signed 13495
by the highest ranking official which includes the following 13496
information: 13497

(1) The health delivery network's full name and the address 13498
of its principal place of business; 13499

(2) A statement that the health delivery network is not 13500
required to obtain a certificate of authority under this chapter 13501
to conduct its business. 13502

(I) The superintendent shall not issue a certificate of authority to a health insuring corporation that is a provider sponsored organization unless all health care plans to be offered by the health insuring corporation provide basic health care services. Substantially all of the physicians and hospitals with ownership or control of the provider sponsored organization, as defined in section 1751.01 of the Revised Code, shall also be participating providers for the provision of basic health care services for health care plans offered by the provider sponsored organization. If a health insuring corporation that is a provider sponsored organization offers health care plans that do not provide basic health care services, the health insuring corporation shall be deemed, for purposes of section 1751.35 of the Revised Code, to have failed to substantially comply with this chapter.

Except as specifically provided in this division and in division (A) of section 1751.28 of the Revised Code, the provisions of this chapter shall apply to all health insuring corporations that are provider sponsored organizations in the same manner that these provisions apply to all health insuring corporations that are not provider sponsored organizations.

(J) Nothing in this section shall be construed to apply to any multiple employer welfare arrangement operating pursuant to Chapter 1739. of the Revised Code.

(K) Any person who violates division (B) of this section, and any health delivery network that fails to comply with division (H) of this section, is subject to the penalties set forth in section 1751.45 of the Revised Code.

Sec. 1751.13. (A)(1)(a) A health insuring corporation shall, either directly or indirectly, enter into contracts for the provision of health care services with a sufficient number and

types of providers and health care facilities to ensure that all 13534
covered health care services will be accessible to enrollees from 13535
a contracted provider or health care facility. 13536

(b) A health insuring corporation shall not refuse to 13537
contract with a physician for the provision of health care 13538
services or refuse to recognize a physician as a specialist on the 13539
basis that the physician attended an educational program or a 13540
residency program approved or certified by the American 13541
osteopathic association. A health insuring corporation shall not 13542
refuse to contract with a health care facility for the provision 13543
of health care services on the basis that the health care facility 13544
is certified or accredited by the American osteopathic association 13545
or that the health care facility is an osteopathic hospital ~~as~~ 13546
~~defined in section 3702.51 of the Revised Code.~~ 13547

(c) Nothing in division (A)(1)(b) of this section shall be 13548
construed to require a health insuring corporation to make a 13549
benefit payment under a closed panel plan to a physician or health 13550
care facility with which the health insuring corporation does not 13551
have a contract, provided that none of the bases set forth in that 13552
division are used as a reason for failing to make a benefit 13553
payment. 13554

(2) When a health insuring corporation is unable to provide a 13555
covered health care service from a contracted provider or health 13556
care facility, the health insuring corporation must provide that 13557
health care service from a noncontracted provider or health care 13558
facility consistent with the terms of the enrollee's policy, 13559
contract, certificate, or agreement. The health insuring 13560
corporation shall either ensure that the health care service be 13561
provided at no greater cost to the enrollee than if the enrollee 13562
had obtained the health care service from a contracted provider or 13563
health care facility, or make other arrangements acceptable to the 13564
superintendent of insurance. 13565

(3) Nothing in this section shall prohibit a health insuring corporation from entering into contracts with out-of-state providers or health care facilities that are licensed, certified, accredited, or otherwise authorized in that state.

(B)(1) A health insuring corporation shall, either directly or indirectly, enter into contracts with all providers and health care facilities through which health care services are provided to its enrollees.

(2) A health insuring corporation, upon written request, shall assist its contracted providers in finding stop-loss or reinsurance carriers.

(C) A health insuring corporation shall file an annual certificate with the superintendent certifying that all provider contracts and contracts with health care facilities through which health care services are being provided contain the following:

(1) A description of the method by which the provider or health care facility will be notified of the specific health care services for which the provider or health care facility will be responsible, including any limitations or conditions on such services;

(2) The specific hold harmless provision specifying protection of enrollees set forth as follows:

"[Provider/Health Care Facility] agrees that in no event, including but not limited to nonpayment by the health insuring corporation, insolvency of the health insuring corporation, or breach of this agreement, shall [Provider/Health Care Facility] bill, charge, collect a deposit from, seek remuneration or reimbursement from, or have any recourse against, a subscriber, enrollee, person to whom health care services have been provided, or person acting on behalf of the covered enrollee, for health care services provided pursuant to this agreement. This does not

prohibit [Provider/Health Care Facility] from collecting 13597
co-insurance, deductibles, or copayments as specifically provided 13598
in the evidence of coverage, or fees for uncovered health care 13599
services delivered on a fee-for-service basis to persons 13600
referenced above, nor from any recourse against the health 13601
insuring corporation or its successor." 13602

(3) Provisions requiring the provider or health care facility 13603
to continue to provide covered health care services to enrollees 13604
in the event of the health insuring corporation's insolvency or 13605
discontinuance of operations. The provisions shall require the 13606
provider or health care facility to continue to provide covered 13607
health care services to enrollees as needed to complete any 13608
medically necessary procedures commenced but unfinished at the 13609
time of the health insuring corporation's insolvency or 13610
discontinuance of operations. The completion of a medically 13611
necessary procedure shall include the rendering of all covered 13612
health care services that constitute medically necessary follow-up 13613
care for that procedure. If an enrollee is receiving necessary 13614
inpatient care at a hospital, the provisions may limit the 13615
required provision of covered health care services relating to 13616
that inpatient care in accordance with division (D)(3) of section 13617
1751.11 of the Revised Code, and may also limit such required 13618
provision of covered health care services to the period ending 13619
thirty days after the health insuring corporation's insolvency or 13620
discontinuance of operations. 13621

The provisions required by division (C)(3) of this section 13622
shall not require any provider or health care facility to continue 13623
to provide any covered health care service after the occurrence of 13624
any of the following: 13625

(a) The end of the thirty-day period following the entry of a 13626
liquidation order under Chapter 3903. of the Revised Code; 13627

(b) The end of the enrollee's period of coverage for a 13628

contractual prepayment or premium; 13629

(c) The enrollee obtains equivalent coverage with another 13630
health insuring corporation or insurer, or the enrollee's employer 13631
obtains such coverage for the enrollee; 13632

(d) The enrollee or the enrollee's employer terminates 13633
coverage under the contract; 13634

(e) A liquidator effects a transfer of the health insuring 13635
corporation's obligations under the contract under division (A)(8) 13636
of section 3903.21 of the Revised Code. 13637

(4) A provision clearly stating the rights and 13638
responsibilities of the health insuring corporation, and of the 13639
contracted providers and health care facilities, with respect to 13640
administrative policies and programs, including, but not limited 13641
to, payments systems, utilization review, quality assurance, 13642
assessment, and improvement programs, credentialing, 13643
confidentiality requirements, and any applicable federal or state 13644
programs; 13645

(5) A provision regarding the availability and 13646
confidentiality of those health records maintained by providers 13647
and health care facilities to monitor and evaluate the quality of 13648
care, to conduct evaluations and audits, and to determine on a 13649
concurrent or retrospective basis the necessity of and 13650
appropriateness of health care services provided to enrollees. The 13651
provision shall include terms requiring the provider or health 13652
care facility to make these health records available to 13653
appropriate state and federal authorities involved in assessing 13654
the quality of care or in investigating the grievances or 13655
complaints of enrollees, and requiring the provider or health care 13656
facility to comply with applicable state and federal laws related 13657
to the confidentiality of medical or health records. 13658

(6) A provision that states that contractual rights and 13659

responsibilities may not be assigned or delegated by the provider 13660
or health care facility without the prior written consent of the 13661
health insuring corporation; 13662

(7) A provision requiring the provider or health care 13663
facility to maintain adequate professional liability and 13664
malpractice insurance. The provision shall also require the 13665
provider or health care facility to notify the health insuring 13666
corporation not more than ten days after the provider's or health 13667
care facility's receipt of notice of any reduction or cancellation 13668
of such coverage. 13669

(8) A provision requiring the provider or health care 13670
facility to observe, protect, and promote the rights of enrollees 13671
as patients; 13672

(9) A provision requiring the provider or health care 13673
facility to provide health care services without discrimination on 13674
the basis of a patient's participation in the health care plan, 13675
age, sex, ethnicity, religion, sexual preference, health status, 13676
or disability, and without regard to the source of payments made 13677
for health care services rendered to a patient. This requirement 13678
shall not apply to circumstances when the provider or health care 13679
facility appropriately does not render services due to limitations 13680
arising from the provider's or health care facility's lack of 13681
training, experience, or skill, or due to licensing restrictions. 13682

(10) A provision containing the specifics of any obligation 13683
on the primary care provider to provide, or to arrange for the 13684
provision of, covered health care services twenty-four hours per 13685
day, seven days per week; 13686

(11) A provision setting forth procedures for the resolution 13687
of disputes arising out of the contract; 13688

(12) A provision stating that the hold harmless provision 13689
required by division (C)(2) of this section shall survive the 13690

termination of the contract with respect to services covered and 13691
provided under the contract during the time the contract was in 13692
effect, regardless of the reason for the termination, including 13693
the insolvency of the health insuring corporation; 13694

(13) A provision requiring those terms that are used in the 13695
contract and that are defined by this chapter, be used in the 13696
contract in a manner consistent with those definitions. 13697

This division does not apply to the coverage of beneficiaries 13698
enrolled in medicare pursuant to a medicare risk contract or 13699
medicare cost contract, or to the coverage of beneficiaries 13700
enrolled in the federal employee health benefits program pursuant 13701
to 5 U.S.C.A. 8905, or to the coverage of medicaid recipients, or 13702
to the coverage of beneficiaries under any federal health care 13703
program regulated by a federal regulatory body, or to the coverage 13704
of beneficiaries under any contract covering officers or employees 13705
of the state that has been entered into by the department of 13706
administrative services. 13707

(D)(1) No health insuring corporation contract with a 13708
provider or health care facility shall contain any of the 13709
following: 13710

(a) A provision that directly or indirectly offers an 13711
inducement to the provider or health care facility to reduce or 13712
limit medically necessary health care services to a covered 13713
enrollee; 13714

(b) A provision that penalizes a provider or health care 13715
facility that assists an enrollee to seek a reconsideration of the 13716
health insuring corporation's decision to deny or limit benefits 13717
to the enrollee; 13718

(c) A provision that limits or otherwise restricts the 13719
provider's or health care facility's ethical and legal 13720
responsibility to fully advise enrollees about their medical 13721

condition and about medically appropriate treatment options;	13722
(d) A provision that penalizes a provider or health care facility for principally advocating for medically necessary health care services;	13723 13724 13725
(e) A provision that penalizes a provider or health care facility for providing information or testimony to a legislative or regulatory body or agency. This shall not be construed to prohibit a health insuring corporation from penalizing a provider or health care facility that provides information or testimony that is libelous or slanderous or that discloses trade secrets which the provider or health care facility has no privilege or permission to disclose.	13726 13727 13728 13729 13730 13731 13732 13733
(f) A provision that violates Chapter 3963. of the Revised Code.	13734 13735
(2) Nothing in this division shall be construed to prohibit a health insuring corporation from doing either of the following:	13736 13737
(a) Making a determination not to reimburse or pay for a particular medical treatment or other health care service;	13738 13739
(b) Enforcing reasonable peer review or utilization review protocols, or determining whether a particular provider or health care facility has complied with these protocols.	13740 13741 13742
(E) Any contract between a health insuring corporation and an intermediary organization shall clearly specify that the health insuring corporation must approve or disapprove the participation of any provider or health care facility with which the intermediary organization contracts.	13743 13744 13745 13746 13747
(F) If an intermediary organization that is not a health delivery network contracting solely with self-insured employers subcontracts with a provider or health care facility, the subcontract with the provider or health care facility shall do all	13748 13749 13750 13751

of the following: 13752

(1) Contain the provisions required by divisions (C) and (G) 13753
of this section, as made applicable to an intermediary 13754
organization, without the inclusion of inducements or penalties 13755
described in division (D) of this section; 13756

(2) Acknowledge that the health insuring corporation is a 13757
third-party beneficiary to the agreement; 13758

(3) Acknowledge the health insuring corporation's role in 13759
approving the participation of the provider or health care 13760
facility, pursuant to division (E) of this section. 13761

(G) Any provider contract or contract with a health care 13762
facility shall clearly specify the health insuring corporation's 13763
statutory responsibility to monitor and oversee the offering of 13764
covered health care services to its enrollees. 13765

(H)(1) A health insuring corporation shall maintain its 13766
provider contracts and its contracts with health care facilities 13767
at one or more of its places of business in this state, and shall 13768
provide copies of these contracts to facilitate regulatory review 13769
upon written notice by the superintendent of insurance. 13770

(2) Any contract with an intermediary organization that 13771
accepts compensation shall include provisions requiring the 13772
intermediary organization to provide the superintendent with 13773
regulatory access to all books, records, financial information, 13774
and documents related to the provision of health care services to 13775
subscribers and enrollees under the contract. The contract shall 13776
require the intermediary organization to maintain such books, 13777
records, financial information, and documents at its principal 13778
place of business in this state and to preserve them for at least 13779
three years in a manner that facilitates regulatory review. 13780

(I)(1) A health insuring corporation shall notify its 13781
affected enrollees of the termination of a contract for the 13782

provision of health care services between the health insuring corporation and a primary care physician or hospital, by mail, within thirty days after the termination of the contract.

(a) Notice shall be given to subscribers of the termination of a contract with a primary care physician if the subscriber, or a dependent covered under the subscriber's health care coverage, has received health care services from the primary care physician within the previous twelve months or if the subscriber or dependent has selected the physician as the subscriber's or dependent's primary care physician within the previous twelve months.

(b) Notice shall be given to subscribers of the termination of a contract with a hospital if the subscriber, or a dependent covered under the subscriber's health care coverage, has received health care services from that hospital within the previous twelve months.

(2) The health insuring corporation shall pay, in accordance with the terms of the contract, for all covered health care services rendered to an enrollee by a primary care physician or hospital between the date of the termination of the contract and five days after the notification of the contract termination is mailed to a subscriber at the subscriber's last known address.

(J) Divisions (A) and (B) of this section do not apply to any health insuring corporation that, on June 4, 1997, holds a certificate of authority or license to operate under Chapter 1740. of the Revised Code.

(K) Nothing in this section shall restrict the governing body of a hospital from exercising the authority granted it pursuant to section 3701.351 of the Revised Code.

Sec. 1761.26. Whenever the approval of the superintendent of

credit unions is required under this chapter, or under an order or 13813
supervisory action issued or taken under this chapter, for a 13814
person to serve as an organizer, incorporator, director, or 13815
executive officer of a credit union share guaranty corporation, or 13816
to otherwise participate in the management of such a corporation, 13817
the superintendent shall request the superintendent of the bureau 13818
of criminal identification and investigation, or a vendor approved 13819
by the bureau, to conduct a criminal records check based on the 13820
person's fingerprints in accordance with ~~division (A)(14) of~~ 13821
section 109.572 of the Revised Code. The superintendent of credit 13822
unions shall request that criminal record information from the 13823
federal bureau of investigation be obtained as part of the 13824
criminal records check. Any fee required under division (C)(3) of 13825
section 109.572 of the Revised Code shall be paid by the person 13826
who is the subject of the request. 13827

Sec. 1901.18. (A) Except as otherwise provided in this 13828
division or section 1901.181 of the Revised Code, subject to the 13829
monetary jurisdiction of municipal courts as set forth in section 13830
1901.17 of the Revised Code, a municipal court has original 13831
jurisdiction within its territory in all of the following actions 13832
or proceedings and to perform all of the following functions: 13833

(1) In any civil action, of whatever nature or remedy, of 13834
which judges of county courts have jurisdiction; 13835

(2) In any action or proceeding at law for the recovery of 13836
money or personal property of which the court of common pleas has 13837
jurisdiction; 13838

(3) In any action at law based on contract, to determine, 13839
preserve, and enforce all legal and equitable rights involved in 13840
the contract, to decree an accounting, reformation, or 13841
cancellation of the contract, and to hear and determine all legal 13842

and equitable remedies necessary or proper for a complete	13843
determination of the rights of the parties to the contract;	13844
(4) In any action or proceeding for the sale of personal	13845
property under chattel mortgage, lien, encumbrance, or other	13846
charge, for the foreclosure and marshalling of liens on personal	13847
property of that nature, and for the rendering of personal	13848
judgment in the action or proceeding;	13849
(5) In any action or proceeding to enforce the collection of	13850
its own judgments or the judgments rendered by any court within	13851
the territory to which the municipal court has succeeded, and to	13852
subject the interest of a judgment debtor in personal property to	13853
satisfy judgments enforceable by the municipal court;	13854
(6) In any action or proceeding in the nature of	13855
interpleader;	13856
(7) In any action of replevin;	13857
(8) In any action of forcible entry and detainer;	13858
(9) In any action concerning the issuance and enforcement of	13859
temporary protection orders pursuant to section 2919.26 of the	13860
Revised Code or protection orders pursuant to section 2903.213 of	13861
the Revised Code or the enforcement of protection orders issued by	13862
courts of another state, as defined in section 2919.27 of the	13863
Revised Code;	13864
(10) If the municipal court has a housing or environmental	13865
division, in any action over which the division is given	13866
jurisdiction by section 1901.181 of the Revised Code, provided	13867
that, except as specified in division (B) of that section, no	13868
judge of the court other than the judge of the division shall hear	13869
or determine any action over which the division has jurisdiction;	13870
(11) In any action brought pursuant to division (I) of	13871
section 3733.11 <u>4781.40</u> of the Revised Code, if the residential	13872

premises that are the subject of the action are located within the territorial jurisdiction of the court;

(12) In any civil action as described in division (B)(1) of section 3767.41 of the Revised Code that relates to a public nuisance, and, to the extent any provision of this chapter conflicts or is inconsistent with a provision of that section, the provision of that section shall control in the civil action;

(13) In a proceeding brought pursuant to section 955.222 of the Revised Code by the owner of a dog that has been designated as a nuisance dog, dangerous dog, or vicious dog.

(B) The Cleveland municipal court also shall have jurisdiction within its territory in all of the following actions or proceedings and to perform all of the following functions:

(1) In all actions and proceedings for the sale of real property under lien of a judgment of the municipal court or a lien for machinery, material, or fuel furnished or labor performed, irrespective of amount, and, in those actions and proceedings, the court may proceed to foreclose and marshal all liens and all vested or contingent rights, to appoint a receiver, and to render personal judgment irrespective of amount in favor of any party.

(2) In all actions for the foreclosure of a mortgage on real property given to secure the payment of money or the enforcement of a specific lien for money or other encumbrance or charge on real property, when the amount claimed by the plaintiff does not exceed fifteen thousand dollars and the real property is situated within the territory, and, in those actions, the court may proceed to foreclose all liens and all vested and contingent rights and may proceed to render judgments and make findings and orders between the parties in the same manner and to the same extent as in similar actions in the court of common pleas.

(3) In all actions for the recovery of real property situated

within the territory to the same extent as courts of common pleas 13904
have jurisdiction; 13905

(4) In all actions for injunction to prevent or terminate 13906
violations of the ordinances and regulations of the city of 13907
Cleveland enacted or promulgated under the police power of the 13908
city of Cleveland, pursuant to Section 3 of Article XVIII, Ohio 13909
Constitution, over which the court of common pleas has or may have 13910
jurisdiction, and, in those actions, the court may proceed to 13911
render judgments and make findings and orders in the same manner 13912
and to the same extent as in similar actions in the court of 13913
common pleas. 13914

Sec. 1909.11. A county court judge has jurisdiction in any 13915
action brought pursuant to division (I) of section ~~3733.11~~ 4781.40 13916
of the Revised Code if the residential premises that are the 13917
subject of the action are located within the territorial 13918
jurisdiction of the judge's county court district. 13919

Sec. 1923.01. (A) As provided in this chapter, any judge of a 13920
county or municipal court or a court of common pleas, within the 13921
judge's proper area of jurisdiction, may inquire about persons who 13922
make unlawful and forcible entry into lands or tenements and 13923
detain them, and about persons who make a lawful and peaceable 13924
entry into lands or tenements and hold them unlawfully and by 13925
force. If, upon the inquiry, it is found that an unlawful and 13926
forcible entry has been made and the lands or tenements are 13927
detained, or that, after a lawful entry, lands or tenements are 13928
held unlawfully and by force, a judge shall cause the plaintiff in 13929
an action under this chapter to have restitution of the lands or 13930
tenements. 13931

(B) An action shall be brought under this chapter within two 13932
years after the cause of action accrues. 13933

(C) As used in this chapter:	13934
(1) "Tenant" means a person who is entitled under a rental agreement to the use or occupancy of premises, other than premises located in a manufactured home park, to the exclusion of others, except that as used in division (A)(6) of section 1923.02 and section 1923.051 of the Revised Code, "tenant" includes a manufactured home park resident.	13935 13936 13937 13938 13939 13940
(2) "Landlord" means the owner, lessor, or sublessor of premises, or the agent or person the landlord authorizes to manage premises or to receive rent from a tenant under a rental agreement, except, if required by the facts of the action to which the term is applied, "landlord" means a park operator.	13941 13942 13943 13944 13945
(3) "Resident" has the same meaning as in section 3733.01 <u>4781.01</u> of the Revised Code.	13946 13947
(4) "Residential premises" has the same meaning as in section 5321.01 of the Revised Code, except, if required by the facts of the action to which the term is applied, "residential premises" has the same meaning as in section 3733.01 <u>4781.01</u> of the Revised Code.	13948 13949 13950 13951 13952
(5) "Rental agreement" means any agreement or lease, written or oral, that establishes or modifies the terms, conditions, rules, or other provisions concerning the use or occupancy of premises by one of the parties to the agreement or lease, except that "rental agreement," as used in division (A)(13) of section 1923.02 of the Revised Code and where the context requires as used in this chapter, means a rental agreement as defined in division (D) of section 5322.01 of the Revised Code.	13953 13954 13955 13956 13957 13958 13959 13960
(6) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.	13961 13962
(7) "School premises" has the same meaning as in section 2925.01 of the Revised Code.	13963 13964

(8) "Sexually oriented offense" and "child-victim oriented offense" have the same meanings as in section 2950.01 of the Revised Code.	13965 13966 13967
(9) "Recreational vehicle" and "mobile home" have the same meanings as in section 4501.01 of the Revised Code.	13968 13969
(10) "Manufactured home" has the same meaning as in section 3781.06 of the Revised Code.	13970 13971
(11) "Manufactured home park" has the same meaning as in section 3733.01 <u>4781.01</u> of the Revised Code and also means any tract of land upon which one or two manufactured or mobile homes used for habitation are parked, either free of charge or for revenue purposes, pursuant to rental agreements between the owners of the manufactured or mobile homes and the owner of the tract of land.	13972 13973 13974 13975 13976 13977 13978
(12) "Park operator" has the same meaning as in section 3733.01 <u>4781.01</u> of the Revised Code and also means a landlord of premises upon which one or two manufactured or mobile homes used for habitation are parked, either free of charge or for revenue purposes, pursuant to rental agreements between the owners of the manufactured or mobile homes and a landlord who is not licensed as a manufactured home park operator pursuant to Chapter 3733. <u>4781.</u> of the Revised Code.	13979 13980 13981 13982 13983 13984 13985 13986
(13) "Personal property" means tangible personal property other than a manufactured home, mobile home, or recreational vehicle that is the subject of an action under this chapter.	13987 13988 13989
(14) "Preschool or child day-care center premises" has the same meaning as in section 2950.034 of the Revised Code.	13990 13991
Sec. 1923.02. (A) Proceedings under this chapter may be had as follows:	13992 13993
(1) Against tenants or manufactured home park residents	13994

holding over their terms;	13995
(2) Against tenants or manufactured home park residents in possession under an oral tenancy, who are in default in the payment of rent as provided in division (B) of this section;	13996 13997 13998
(3) In sales of real estate, on executions, orders, or other judicial process, when the judgment debtor was in possession at the time of the rendition of the judgment or decree, by virtue of which the sale was made;	13999 14000 14001 14002
(4) In sales by executors, administrators, or guardians, and on partition, when any of the parties to the complaint were in possession at the commencement of the action, after the sales, so made on execution or otherwise, have been examined by the proper court and adjudged legal;	14003 14004 14005 14006 14007
(5) When the defendant is an occupier of lands or tenements, without color of title, and the complainant has the right of possession to them;	14008 14009 14010
(6) In any other case of the unlawful and forcible detention of lands or tenements. For purposes of this division, in addition to any other type of unlawful and forcible detention of lands or tenements, such a detention may be determined to exist when both of the following apply:	14011 14012 14013 14014 14015
(a) A tenant fails to vacate residential premises within three days after both of the following occur:	14016 14017
(i) The tenant's landlord has actual knowledge of or has reasonable cause to believe that the tenant, any person in the tenant's household, or any person on the premises with the consent of the tenant previously has or presently is engaged in a violation of Chapter 2925. or 3719. of the Revised Code, or of a municipal ordinance that is substantially similar to any section in either of those chapters, which involves a controlled substance and which occurred in, is occurring in, or otherwise was or is	14018 14019 14020 14021 14022 14023 14024 14025

connected with the premises, whether or not the tenant or other 14026
person has been charged with, has pleaded guilty to or been 14027
convicted of, or has been determined to be a delinquent child for 14028
an act that, if committed by an adult, would be a violation as 14029
described in this division. For purposes of this division, a 14030
landlord has "actual knowledge of or has reasonable cause to 14031
believe" that a tenant, any person in the tenant's household, or 14032
any person on the premises with the consent of the tenant 14033
previously has or presently is engaged in a violation as described 14034
in this division if a search warrant was issued pursuant to 14035
Criminal Rule 41 or Chapter 2933. of the Revised Code; the 14036
affidavit presented to obtain the warrant named or described the 14037
tenant or person as the individual to be searched and particularly 14038
described the tenant's premises as the place to be searched, named 14039
or described one or more controlled substances to be searched for 14040
and seized, stated substantially the offense under Chapter 2925. 14041
or 3719. of the Revised Code or the substantially similar 14042
municipal ordinance that occurred in, is occurring in, or 14043
otherwise was or is connected with the tenant's premises, and 14044
states the factual basis for the affiant's belief that the 14045
controlled substances are located on the tenant's premises; the 14046
warrant was properly executed by a law enforcement officer and any 14047
controlled substance described in the affidavit was found by that 14048
officer during the search and seizure; and, subsequent to the 14049
search and seizure, the landlord was informed by that or another 14050
law enforcement officer of the fact that the tenant or person has 14051
or presently is engaged in a violation as described in this 14052
division and it occurred in, is occurring in, or otherwise was or 14053
is connected with the tenant's premises. 14054

(ii) The landlord gives the tenant the notice required by 14055
division (C) of section 5321.17 of the Revised Code. 14056

(b) The court determines, by a preponderance of the evidence, 14057

that the tenant, any person in the tenant's household, or any person on the premises with the consent of the tenant previously has or presently is engaged in a violation as described in division (A)(6)(a)(i) of this section.

(7) In cases arising out of Chapter 5313. of the Revised Code. In those cases, the court has the authority to declare a forfeiture of the vendee's rights under a land installment contract and to grant any other claims arising out of the contract.

(8) Against tenants who have breached an obligation that is imposed by section 5321.05 of the Revised Code, other than the obligation specified in division (A)(9) of that section, and that materially affects health and safety. Prior to the commencement of an action under this division, notice shall be given to the tenant and compliance secured with section 5321.11 of the Revised Code.

(9) Against tenants who have breached an obligation imposed upon them by a written rental agreement;

(10) Against manufactured home park residents who have defaulted in the payment of rent or breached the terms of a rental agreement with a park operator. Nothing in this division precludes the commencement of an action under division (A)(12) of this section when the additional circumstances described in that division apply.

(11) Against manufactured home park residents who have committed two material violations of the rules of the manufactured home park, of the ~~public health council~~ manufactured homes commission, or of applicable state and local health and safety codes and who have been notified of the violations in compliance with section ~~3733.13~~ 4781.45 of the Revised Code;

(12) Against a manufactured home park resident, or the estate of a manufactured home park resident, who as a result of death or

otherwise has been absent from the manufactured home park for a 14089
period of thirty consecutive days prior to the commencement of an 14090
action under this division and whose manufactured home or mobile 14091
home, or recreational vehicle that is parked in the manufactured 14092
home park, has been left unoccupied for that thirty-day period, 14093
without notice to the park operator and without payment of rent 14094
due under the rental agreement with the park operator; 14095

(13) Against occupants of self-service storage facilities, as 14096
defined in division (A) of section 5322.01 of the Revised Code, 14097
who have breached the terms of a rental agreement or violated 14098
section 5322.04 of the Revised Code; 14099

(14) Against any resident or occupant who, pursuant to a 14100
rental agreement, resides in or occupies residential premises 14101
located within one thousand feet of any school premises or 14102
preschool or child day-care center premises and to whom both of 14103
the following apply: 14104

(a) The resident's or occupant's name appears on the state 14105
registry of sex offenders and child-victim offenders maintained 14106
under section 2950.13 of the Revised Code. 14107

(b) The state registry of sex offenders and child-victim 14108
offenders indicates that the resident or occupant was convicted of 14109
or pleaded guilty to a sexually oriented offense or a child-victim 14110
oriented offense in a criminal prosecution and was not sentenced 14111
to a serious youthful offender dispositional sentence for that 14112
offense. 14113

(15) Against any tenant who permits any person to occupy 14114
residential premises located within one thousand feet of any 14115
school premises or preschool or child day-care center premises if 14116
both of the following apply to the person: 14117

(a) The person's name appears on the state registry of sex 14118
offenders and child-victim offenders maintained under section 14119

2950.13 of the Revised Code. 14120

(b) The state registry of sex offenders and child-victim 14121
offenders indicates that the person was convicted of or pleaded 14122
guilty to a sexually oriented offense or a child-victim oriented 14123
offense in a criminal prosecution and was not sentenced to a 14124
serious youthful offender dispositional sentence for that offense. 14125

(B) If a tenant or manufactured home park resident holding 14126
under an oral tenancy is in default in the payment of rent, the 14127
tenant or resident forfeits the right of occupancy, and the 14128
landlord may, at the landlord's option, terminate the tenancy by 14129
notifying the tenant or resident, as provided in section 1923.04 14130
of the Revised Code, to leave the premises, for the restitution of 14131
which an action may then be brought under this chapter. 14132

(C)(1) If a tenant or any other person with the tenant's 14133
permission resides in or occupies residential premises that are 14134
located within one thousand feet of any school premises and is a 14135
resident or occupant of the type described in division (A)(14) of 14136
this section or a person of the type described in division (A)(15) 14137
of this section, the landlord for those residential premises, upon 14138
discovery that the tenant or other person is a resident, occupant, 14139
or person of that nature, may terminate the rental agreement or 14140
tenancy for those residential premises by notifying the tenant and 14141
all other occupants, as provided in section 1923.04 of the Revised 14142
Code, to leave the premises. 14143

(2) If a landlord is authorized to terminate a rental 14144
agreement or tenancy pursuant to division (C)(1) of this section 14145
but does not so terminate the rental agreement or tenancy, the 14146
landlord is not liable in a tort or other civil action in damages 14147
for any injury, death, or loss to person or property that 14148
allegedly result from that decision. 14149

(D) This chapter does not apply to a student tenant as 14150

defined by division (H) of section 5321.01 of the Revised Code 14151
when the college or university proceeds to terminate a rental 14152
agreement pursuant to section 5321.031 of the Revised Code. 14153

Sec. 1923.061. (A) Any defense in an action under this 14154
chapter may be asserted at trial. 14155

(B) In an action for possession of residential premises based 14156
upon nonpayment of the rent or in an action for rent when the 14157
tenant or manufactured home park resident is in possession, the 14158
tenant or resident may counterclaim for any amount ~~he~~ the tenant
or resident may recover under the rental agreement or under 14159
Chapter ~~3733-~~ 4781. or 5321. of the Revised Code. In that event, 14160
the court from time to time may order the tenant or resident to 14161
pay into court all or part of the past due rent and rent becoming 14162
due during the pendency of the action. After trial and judgment, 14163
the party to whom a net judgment is owed shall be paid first from 14164
the money paid into court, and any balance shall be satisfied as 14165
any other judgment. If no rent remains due after application of 14166
this division, judgment shall be entered for the tenant or 14167
resident in the action for possession. If the tenant or resident 14168
has paid into court an amount greater than that necessary to 14169
satisfy a judgment obtained by the landlord, the balance shall be 14170
returned by the court to the tenant or resident. 14171
14172

Sec. 1923.15. During any proceeding involving residential 14173
premises under this chapter, the court may order an appropriate 14174
governmental agency to inspect the residential premises. If the 14175
agency determines and the court finds conditions which constitute 14176
a violation of section ~~3733.10~~ 4781.38 or 5321.04 of the Revised 14177
Code, and if the premises have been vacated or are to be restored 14178
to the landlord, the court may issue an order forbidding the 14179
re-rental of the property until such conditions are corrected. If 14180
the agency determines and the court finds such conditions, and if 14181

the court finds that the tenant or manufactured home park resident 14182
may remain in possession, the court may order such conditions 14183
corrected. If such conditions have been caused by the tenant or 14184
resident, the court may award damages to the landlord equal to the 14185
reasonable cost of correcting such conditions. 14186

Sec. 2151.86. (A)(1) The appointing or hiring officer of any 14187
entity that appoints or employs any person responsible for a 14188
child's care in out-of-home care shall request the superintendent 14189
of BCII to conduct a criminal records check with respect to any 14190
person who is under final consideration for appointment or 14191
employment as a person responsible for a child's care in 14192
out-of-home care, except that section 3319.39 of the Revised Code 14193
shall apply instead of this section if the out-of-home care entity 14194
is a public school, educational service center, or chartered 14195
nonpublic school. 14196

(2) At the times specified in this division, the 14197
administrative director of an agency, or attorney, who arranges an 14198
adoption for a prospective adoptive parent shall request the 14199
superintendent of BCII to conduct a criminal records check with 14200
respect to that prospective adoptive parent and a criminal records 14201
check with respect to all persons eighteen years of age or older 14202
who reside with the prospective adoptive parent. The 14203
administrative director or attorney shall request a criminal 14204
records check pursuant to this division at the time of the initial 14205
home study, every four years after the initial home study at the 14206
time of an update, and at the time that an adoptive home study is 14207
completed as a new home study. 14208

(3) Before a recommending agency submits a recommendation to 14209
the department of job and family services on whether the 14210
department should issue a certificate to a foster home under 14211
section 5103.03 of the Revised Code, and every four years 14212

thereafter prior to a recertification under that section, the 14213
administrative director of the agency shall request that the 14214
superintendent of BCII conduct a criminal records check with 14215
respect to the prospective foster caregiver and a criminal records 14216
check with respect to all other persons eighteen years of age or 14217
older who reside with the foster caregiver. 14218

(B)(1) If a person subject to a criminal records check under 14219
division (A)(1) of this section does not present proof that the 14220
person has been a resident of this state for the five-year period 14221
immediately prior to the date upon which the criminal records 14222
check is requested or does not provide evidence that within that 14223
five-year period the superintendent of BCII has requested 14224
information about the person from the federal bureau of 14225
investigation in a criminal records check, the appointing or 14226
hiring officer shall request that the superintendent of BCII 14227
obtain information from the federal bureau of investigation as a 14228
part of the criminal records check, including fingerprint-based 14229
checks of national crime information databases as described in 42 14230
U.S.C. 671. If a person subject to a criminal records check under 14231
division (A)(1) of this section presents proof that the person has 14232
been a resident of this state for that five-year period, the 14233
appointing or hiring officer or attorney may request that the 14234
superintendent of BCII include information from the federal bureau 14235
of investigation in the criminal records check, including 14236
fingerprint-based checks of national crime information databases 14237
as described in 42 U.S.C. 671. 14238

When the administrative director of an agency, or attorney, 14239
who arranges an adoption for a prospective parent requests, at the 14240
time of the initial home study, a criminal records check for a 14241
person pursuant to division (A)(2) of this section, the 14242
administrative director or attorney shall request that the 14243
superintendent of BCII obtain information from the federal bureau 14244

of investigation as part of the criminal records check, including 14245
fingerprint_based checks of national crime information databases 14246
as described in 42 U.S.C. 671, for the person subject to the 14247
criminal records check. In all other cases in which the 14248
administrative director of an agency, or attorney, who arranges an 14249
adoption for a prospective parent requests a criminal records 14250
check for a person pursuant to division (A)(2) of this section, 14251
the administrative director or attorney may request that the 14252
superintendent of BCII include information from the federal bureau 14253
of investigation in the criminal records check, including 14254
fingerprint_based checks of national crime information databases 14255
as described in 42 U.S.C. 671. 14256

When the administrative director of a recommending agency 14257
requests, before submitting a recommendation to the department of 14258
job and family services on whether the department should issue a 14259
certificate to a foster home under section 5103.03 of the Revised 14260
Code, a criminal records check for a person pursuant to division 14261
(A)(3) of this section, the administrative director shall request 14262
that the superintendent of BCII obtain information from the 14263
federal bureau of investigation as part of a criminal records 14264
check, including fingerprint_based checks of national crime 14265
information databases as described in 42 U.S.C. 671, for the 14266
person subject to the criminal records check. In all other cases 14267
in which the administrative director of a recommending agency 14268
requests a criminal records check for a person pursuant to 14269
division (A)(3) of this section, the administrative director may 14270
request that the superintendent of BCII include information from 14271
the federal bureau of investigation in the criminal records check, 14272
including fingerprint_based checks of national crime information 14273
databases as described in 42 U.S.C. 671. 14274

Prior to a hearing on a final decree of adoption or 14275
interlocutory order of adoption by a probate court, the 14276

administrative director of an agency, or an attorney, who arranges 14277
an adoption for a prospective parent shall provide to the clerk of 14278
the probate court either of the following: 14279

(a) Any information received pursuant to a request made under 14280
this division from the superintendent of BCII or the federal 14281
bureau of investigation as part of the criminal records check, 14282
including fingerprint-based checks of national crime information 14283
databases as described in 42 U.S.C. 671, for the person subject to 14284
the criminal records check; 14285

(b) Written notification that the person subject to a 14286
criminal records check pursuant to this division failed upon 14287
request to provide the information necessary to complete the form 14288
or failed to provide impressions of the person's fingerprints as 14289
required under division (B)(2) of this section. 14290

(2) An appointing or hiring officer, administrative director, 14291
or attorney required by division (A) of this section to request a 14292
criminal records check shall provide to each person subject to a 14293
criminal records check a copy of the form prescribed pursuant to 14294
division (C)(1) of section 109.572 of the Revised Code and a 14295
standard impression sheet to obtain fingerprint impressions 14296
prescribed pursuant to division (C)(2) of section 109.572 of the 14297
Revised Code, obtain the completed form and impression sheet from 14298
the person, and forward the completed form and impression sheet to 14299
the superintendent of BCII at the time the criminal records check 14300
is requested. 14301

Any person subject to a criminal records check who receives 14302
pursuant to this division a copy of the form prescribed pursuant 14303
to division (C)(1) of section 109.572 of the Revised Code and a 14304
copy of an impression sheet prescribed pursuant to division (C)(2) 14305
of that section and who is requested to complete the form and 14306
provide a set of fingerprint impressions shall complete the form 14307
or provide all the information necessary to complete the form and 14308

shall provide the impression sheet with the impressions of the 14309
person's fingerprints. If a person subject to a criminal records 14310
check, upon request, fails to provide the information necessary to 14311
complete the form or fails to provide impressions of the person's 14312
fingerprints, the appointing or hiring officer shall not appoint 14313
or employ the person as a person responsible for a child's care in 14314
out-of-home care, a probate court may not issue a final decree of 14315
adoption or an interlocutory order of adoption making the person 14316
an adoptive parent, and the department of job and family services 14317
shall not issue a certificate authorizing the prospective foster 14318
caregiver to operate a foster home. 14319

(C)(1) No appointing or hiring officer shall appoint or 14320
employ a person as a person responsible for a child's care in 14321
out-of-home care, the department of job and family services shall 14322
not issue a certificate under section 5103.03 of the Revised Code 14323
authorizing a prospective foster caregiver to operate a foster 14324
home, and no probate court shall issue a final decree of adoption 14325
or an interlocutory order of adoption making a person an adoptive 14326
parent if the person or, in the case of a prospective foster 14327
caregiver or prospective adoptive parent, any person eighteen 14328
years of age or older who resides with the prospective foster 14329
caregiver or prospective adoptive parent previously has been 14330
convicted of or pleaded guilty to any of the violations described 14331
in division (A)~~(8)~~(5) of section 109.572 of the Revised Code, 14332
unless the person meets rehabilitation standards established in 14333
rules adopted under division (F) of this section. 14334

(2) The appointing or hiring officer may appoint or employ a 14335
person as a person responsible for a child's care in out-of-home 14336
care conditionally until the criminal records check required by 14337
this section is completed and the officer receives the results of 14338
the criminal records check. If the results of the criminal records 14339
check indicate that, pursuant to division (C)(1) of this section, 14340

the person subject to the criminal records check does not qualify 14341
for appointment or employment, the officer shall release the 14342
person from appointment or employment. 14343

(3) Prior to certification or recertification under section 14344
5103.03 of the Revised Code, the prospective foster caregiver 14345
subject to a criminal records check under division (A)(3) of this 14346
section shall notify the recommending agency of the revocation of 14347
any foster home license, certificate, or other similar 14348
authorization in another state occurring within the five years 14349
prior to the date of application to become a foster caregiver in 14350
this state. The failure of a prospective foster caregiver to 14351
notify the recommending agency of any revocation of that type in 14352
another state that occurred within that five-year period shall be 14353
grounds for denial of the person's foster home application or the 14354
revocation of the person's foster home certification, whichever is 14355
applicable. If a person has had a revocation in another state 14356
within the five years prior to the date of the application, the 14357
department of job and family services shall not issue a foster 14358
home certificate to the prospective foster caregiver. 14359

(D) The appointing or hiring officer, administrative 14360
director, or attorney shall pay to the bureau of criminal 14361
identification and investigation the fee prescribed pursuant to 14362
division (C)(3) of section 109.572 of the Revised Code for each 14363
criminal records check conducted in accordance with that section 14364
upon a request pursuant to division (A) of this section. The 14365
officer, director, or attorney may charge the person subject to 14366
the criminal records check a fee for the costs the officer, 14367
director, or attorney incurs in obtaining the criminal records 14368
check. A fee charged under this division shall not exceed the 14369
amount of fees the officer, director, or attorney pays for the 14370
criminal records check. If a fee is charged under this division, 14371
the officer, director, or attorney shall notify the person who is 14372

the applicant at the time of the person's initial application for 14373
appointment or employment, an adoption to be arranged, or a 14374
certificate to operate a foster home of the amount of the fee and 14375
that, unless the fee is paid, the person who is the applicant will 14376
not be considered for appointment or employment or as an adoptive 14377
parent or foster caregiver. 14378

(E) The report of any criminal records check conducted by the 14379
bureau of criminal identification and investigation in accordance 14380
with section 109.572 of the Revised Code and pursuant to a request 14381
made under division (A) of this section is not a public record for 14382
the purposes of section 149.43 of the Revised Code and shall not 14383
be made available to any person other than the following: 14384

(1) The person who is the subject of the criminal records 14385
check or the person's representative; 14386

(2) The appointing or hiring officer, administrative 14387
director, or attorney requesting the criminal records check or the 14388
officer's, director's, or attorney's representative; 14389

(3) The department of job and family services, a county 14390
department of job and family services, or a public children 14391
services agency; 14392

(4) Any court, hearing officer, or other necessary individual 14393
involved in a case dealing with the denial of employment, a final 14394
decree of adoption or interlocutory order of adoption, or a foster 14395
home certificate. 14396

(F) The director of job and family services shall adopt rules 14397
in accordance with Chapter 119. of the Revised Code to implement 14398
this section. The rules shall include rehabilitation standards a 14399
person who has been convicted of or pleaded guilty to an offense 14400
listed in division (A)~~(4)~~(5) of section 109.572 of the Revised 14401
Code must meet for an appointing or hiring officer to appoint or 14402
employ the person as a person responsible for a child's care in 14403

out-of-home care, a probate court to issue a final decree of 14404
adoption or interlocutory order of adoption making the person an 14405
adoptive parent, or the department to issue a certificate 14406
authorizing the prospective foster caregiver to operate a foster 14407
home or not revoke a foster home certificate for a violation 14408
specified in section 5103.0328 of the Revised Code. 14409

(G) An appointing or hiring officer, administrative director, 14410
or attorney required by division (A) of this section to request a 14411
criminal records check shall inform each person who is the 14412
applicant, at the time of the person's initial application for 14413
appointment or employment, an adoption to be arranged, or a foster 14414
home certificate, that the person subject to the criminal records 14415
check is required to provide a set of impressions of the person's 14416
fingerprints and that a criminal records check is required to be 14417
conducted and satisfactorily completed in accordance with section 14418
109.572 of the Revised Code. 14419

(H) The department of job and family services may waive the 14420
requirement that a criminal records check based on fingerprints be 14421
conducted for an adult resident of a prospective adoptive or 14422
foster home or the home of a foster caregiver if the recommending 14423
agency documents to the department's satisfaction that the adult 14424
resident is physically unable to comply with the fingerprinting 14425
requirement and poses no danger to foster children or adoptive 14426
children who may be placed in the home. In such cases, the 14427
recommending or approving agency shall request that the bureau of 14428
criminal identification and investigation conduct a criminal 14429
records check using the person's name and social security number. 14430

(I) As used in this section: 14431

(1) "Children's hospital" means any of the following: 14432

(a) A hospital registered under section 3701.07 of the 14433
Revised Code that provides general pediatric medical and surgical 14434

care, and in which at least seventy-five per cent of annual 14435
inpatient discharges for the preceding two calendar years were 14436
individuals less than eighteen years of age; 14437

(b) A distinct portion of a hospital registered under section 14438
3701.07 of the Revised Code that provides general pediatric 14439
medical and surgical care, has a total of at least one hundred 14440
fifty registered pediatric special care and pediatric acute care 14441
beds, and in which at least seventy-five per cent of annual 14442
inpatient discharges for the preceding two calendar years were 14443
individuals less than eighteen years of age; 14444

(c) A distinct portion of a hospital, if the hospital is 14445
registered under section 3701.07 of the Revised Code as a 14446
children's hospital and the children's hospital meets all the 14447
requirements of division (I)(1)(a) of this section. 14448

(2) "Criminal records check" has the same meaning as in 14449
section 109.572 of the Revised Code. 14450

(3) "Person responsible for a child's care in out-of-home 14451
care" has the same meaning as in section 2151.011 of the Revised 14452
Code, except that it does not include a prospective employee of 14453
the department of youth services or a person responsible for a 14454
child's care in a hospital or medical clinic other than a 14455
children's hospital. 14456

(4) "Person subject to a criminal records check" means the 14457
following: 14458

(a) A person who is under final consideration for appointment 14459
or employment as a person responsible for a child's care in 14460
out-of-home care; 14461

(b) A prospective adoptive parent; 14462

(c) A prospective foster caregiver; 14463

(d) A person eighteen years old or older who resides with a 14464

prospective foster caregiver or a prospective adoptive parent. 14465

(5) "Recommending agency" means a public children services 14466
agency, private child placing agency, or private noncustodial 14467
agency to which the department of job and family services has 14468
delegated a duty to inspect and approve foster homes. 14469

(6) "Superintendent of BCII" means the superintendent of the 14470
bureau of criminal identification and investigation. 14471

Sec. 2152.121. (A) If a complaint is filed against a child 14472
alleging that the child is a delinquent child and the case is 14473
transferred pursuant to division (A)(1)(a)(i) or (A)(1)(b)(ii) of 14474
section 2152.12 of the Revised Code, the juvenile court that 14475
transferred the case shall retain jurisdiction for purposes of 14476
making disposition of the child when required under division (B) 14477
of this section. 14478

(B) If a complaint is filed against a child alleging that the 14479
child is a delinquent child, if the case is transferred pursuant 14480
to division (A)(1)(a)(i) or (A)(1)(b)(ii) of section 2152.12 of 14481
the Revised Code, and if the child subsequently is convicted of or 14482
pleads guilty to an offense in that case, the sentence to be 14483
imposed or disposition to be made of the child shall be determined 14484
as follows: 14485

(1) The court in which the child is convicted of or pleads 14486
guilty to the offense shall determine whether, had a complaint 14487
been filed in juvenile court alleging that the child was a 14488
delinquent child for committing an act that would be that offense 14489
if committed by an adult, division (A) of section 2152.12 of the 14490
Revised Code would have required mandatory transfer of the case or 14491
division (B) of that section would have allowed discretionary 14492
transfer of the case. The court shall not consider the factor 14493
specified in division (B)(3) of section 2152.12 of the Revised 14494
Code in making its determination under this division. 14495

(2) If the court in which the child is convicted of or pleads guilty to the offense determines under division (B)(1) of this section that, had a complaint been filed in juvenile court alleging that the child was a delinquent child for committing an act that would be that offense if committed by an adult, division (A) of section 2152.12 of the Revised Code would not have required mandatory transfer of the case, and division (B) of that section would not have allowed discretionary transfer of the case, the court shall transfer jurisdiction of the case back to the juvenile court that initially transferred the case, the court and all other agencies that have any record of the conviction of the child or the child's guilty plea shall expunge the conviction or guilty plea and all records of it, the conviction or guilty plea shall be considered and treated for all purposes other than as provided in this section to have never occurred, the conviction or guilty plea shall be considered and treated for all purposes other than as provided in this section to have been a delinquent child adjudication of the child, and the juvenile court shall impose one or more traditional juvenile dispositions upon the child under sections 2152.19 and 2152.20 of the Revised Code.

(3) If the court in which the child is convicted of or pleads guilty to the offense determines under division (B)(1) of this section that, had a complaint been filed in juvenile court alleging that the child was a delinquent child for committing an act that would be that offense if committed by an adult, division (A) of section 2152.12 of the Revised Code would not have required mandatory transfer of the case but division (B) of that section would have allowed discretionary transfer of the case, the court shall determine the sentence it believes should be imposed upon the child under Chapter 2929. of the Revised Code, shall impose that sentence upon the child, and shall stay that sentence pending completion of the procedures specified in this division. Upon imposition and staying of the sentence, the court shall transfer

jurisdiction of the case back to the juvenile court that initially 14529
transferred the case and the juvenile court shall proceed in 14530
accordance with this division. In no case may the child waive a 14531
right to a hearing of the type described in division (B)(3)(b) of 14532
this section, regarding a motion filed as described in that 14533
division by the prosecuting attorney in the case. Upon transfer of 14534
jurisdiction of the case back to the juvenile court, both of the 14535
following apply: 14536

(a) Except as otherwise provided in division (B)(3)(b) of 14537
this section, the juvenile court shall impose a serious youthful 14538
offender dispositional sentence upon the child under division 14539
(D)(1) of section 2152.13 of the Revised Code. In imposing the 14540
adult portion of that sentence, the juvenile court shall consider 14541
and give preference to the sentence imposed upon the child by the 14542
court in which the child was convicted of or pleaded guilty to the 14543
offense. Upon imposing a serious youthful offender dispositional 14544
sentence upon the child as described in this division, the 14545
juvenile court shall notify the court in which the child was 14546
convicted of or pleaded guilty to the offense, the sentence 14547
imposed upon the child by that court shall terminate, the court 14548
and all other agencies that have any record of the conviction of 14549
the child shall expunge the conviction or guilty plea and all 14550
records of it, the conviction or guilty plea shall be considered 14551
and treated for all purposes other than as provided in this 14552
section to have never occurred, and the conviction or guilty plea 14553
shall be considered and treated for all purposes other than as 14554
provided in this section to have been a delinquent child 14555
adjudication of the child. 14556

(b) Upon the transfer, the prosecuting attorney in the case 14557
may file a motion in the juvenile court that objects to the 14558
imposition of a serious youthful offender dispositional sentence 14559
upon the child and requests that the sentence imposed upon the 14560

child by the court in which the child was convicted of or pleaded 14561
guilty to the offense be invoked. Upon the filing of a motion 14562
under this division, the juvenile court shall hold a hearing to 14563
determine whether the child is not amenable to care or 14564
rehabilitation within the juvenile system and whether the safety 14565
of the community may require that the child be subject solely to 14566
adult sanctions. If the juvenile court at the hearing finds that 14567
the child is not amenable to care or rehabilitation within the 14568
juvenile system or that the safety of the community may require 14569
that the child be subject solely to adult sanctions, the court 14570
shall grant the motion. Absent such a finding, the juvenile court 14571
shall deny the motion. In making its decision under this division, 14572
the juvenile court shall consider the factors listed in division 14573
(D) of section 2152.12 of the Revised Code as factors indicating 14574
that the motion should be granted, shall consider the factors 14575
listed in division (E) of that section as factors indicating that 14576
the motion should not be granted, and shall consider whether the 14577
applicable factors listed in division (D) of that section outweigh 14578
the applicable factors listed in division (E) of that section. 14579

If the juvenile court grants the motion of the prosecuting 14580
attorney under this division, the juvenile court shall transfer 14581
jurisdiction of the case back to the court in which the child was 14582
convicted of or pleaded guilty to the offense, and the sentence 14583
imposed by that court shall be invoked. If the juvenile court 14584
denies the motion of the prosecuting attorney under this section, 14585
the juvenile court shall impose a serious youthful offender 14586
dispositional sentence upon the child in accordance with division 14587
(B)(3)(a) of this section. 14588

(4) If the court in which the child is convicted of or pleads 14589
guilty to the offense determines under division (B)(1) of this 14590
section that, had a complaint been filed in juvenile court 14591
alleging that the child was a delinquent child for committing an 14592

act that would be that offense if committed by an adult, division 14593
(A) of section 2152.12 of the Revised Code would have required 14594
mandatory transfer of the case, the court shall impose sentence 14595
upon the child under Chapter 2929. of the Revised Code. 14596

Sec. 2152.22. (A) When a child is committed to the legal 14597
custody of the department of youth services under this chapter, 14598
the juvenile court relinquishes control with respect to the child 14599
so committed, except as provided in divisions (B), (C), (D), and 14600
(H) of this section or in sections 2152.82 to 2152.86 of the 14601
Revised Code. Subject to divisions (B), (C), and (D) of this 14602
section, sections 2151.353 and 2151.412 to 2151.421 of the Revised 14603
Code, sections 2152.82 to 2152.86 of the Revised Code, and any 14604
other provision of law that specifies a different duration for a 14605
dispositional order, all other dispositional orders made by the 14606
court under this chapter shall be temporary and shall continue for 14607
a period that is designated by the court in its order, until 14608
terminated or modified by the court or until the child attains 14609
twenty-one years of age. 14610

The department shall not release the child from a department 14611
facility and as a result shall not discharge the child or order 14612
the child's release on supervised release prior to the expiration 14613
of the minimum period specified by the court in division (A)(1) of 14614
section 2152.16 of the Revised Code and any term of commitment 14615
imposed under section 2152.17 of the Revised Code or prior to the 14616
child's attainment of twenty-one years of age, except upon the 14617
order of a court pursuant to division (B), (C), or (D) of this 14618
section or in accordance with section 5139.54 of the Revised Code. 14619

(B)(1) The Unless the court grants judicial release under 14620
division (D)(1)(b) of this section, the court that commits a 14621
delinquent child to the department of youth services may grant 14622
judicial release of the child to court supervision under this 14623

division during the first half of the prescribed minimum term for 14624
which the child was committed to the department or, if the child 14625
was committed to the department until the child attains twenty-one 14626
years of age, during the first half of the prescribed period of 14627
commitment that begins on the first day of commitment and ends on 14628
the child's twenty-first birthday, provided any commitment imposed 14629
under division (A), (B), (C), or (D) of section 2152.17 of the 14630
Revised Code has ended. 14631

(2) If the department desires to release a child during a 14632
period specified in division (B)(1) of this section, it shall 14633
request the court that committed the child to grant a judicial 14634
release of the child to court supervision under this division. 14635
During whichever of those periods is applicable, the child or the 14636
parents of the child also may request that court to grant a 14637
judicial release of the child to court supervision. Upon receipt 14638
of a request for a judicial release to court supervision under 14639
this division from the department, the child, or the child's 14640
parent, or upon its own motion, the court that committed the child 14641
shall do one of the following: approve the release by journal 14642
entry; schedule within thirty days after the request is received a 14643
time for a hearing on whether the child is to be released; or 14644
reject the request by journal entry without conducting a hearing. 14645

If the court rejects an initial request for a release under 14646
this division by the child or the child's parent, the child or the 14647
child's parent may make one additional request for a judicial 14648
release to court supervision within the applicable period. The 14649
additional request may be made no earlier than thirty days after 14650
the filing of the prior request for a judicial release to court 14651
supervision. Upon the filing of a second request for a judicial 14652
release to court supervision, the court shall either approve or 14653
disapprove the release by journal entry or schedule within thirty 14654
days after the request is received a time for a hearing on whether 14655

the child is to be released. 14656

(3) If a court schedules a hearing under division (B)(2) of 14657
this section, it may order the department to deliver the child to 14658
the court on the date set for the hearing and may order the 14659
department to present to the court a report on the child's 14660
progress in the institution to which the child was committed and 14661
recommendations for conditions of supervision of the child by the 14662
court after release. The court may conduct the hearing without the 14663
child being present. The court shall determine at the hearing 14664
whether the child should be granted a judicial release to court 14665
supervision. 14666

If the court approves the release under this division, it 14667
shall order its staff to prepare a written treatment and 14668
rehabilitation plan for the child that may include any conditions 14669
of the child's release that were recommended by the department and 14670
approved by the court. The committing court shall send the 14671
juvenile court of the county in which the child is placed a copy 14672
of the recommended plan. The court of the county in which the 14673
child is placed may adopt the recommended conditions set by the 14674
committing court as an order of the court and may add any 14675
additional consistent conditions it considers appropriate. If a 14676
child is granted a judicial release to court supervision, the 14677
release discharges the child from the custody of the department of 14678
youth services. 14679

(C)(1) The Unless the court grants judicial release under 14680
division (D)(1)(b) of this section, the court that commits a 14681
delinquent child to the department of youth services may grant 14682
judicial release of the child to department of youth services 14683
supervision under this division during the second half of the 14684
prescribed minimum term for which the child was committed to the 14685
department or, if the child was committed to the department until 14686
the child attains twenty-one years of age, during the second half 14687

of the prescribed period of commitment that begins on the first 14688
day of commitment and ends on the child's twenty-first birthday, 14689
provided any commitment imposed under division (A), (B), (C), or 14690
(D) of section 2152.17 of the Revised Code has ended. 14691

(2) If the department desires to release a child during a 14692
period specified in division (C)(1) of this section, it shall 14693
request the court that committed the child to grant a judicial 14694
release to department of youth services supervision. During 14695
whichever of those periods is applicable, the child or the child's 14696
parent also may request the court that committed the child to 14697
grant a judicial release to department of youth services 14698
supervision. Upon receipt of a request for judicial release to 14699
department of youth services supervision, the child, or the 14700
child's parent, or upon its own motion at any time during that 14701
period, the court shall do one of the following: approve the 14702
release by journal entry; schedule a time within thirty days after 14703
receipt of the request for a hearing on whether the child is to be 14704
released; or reject the request by journal entry without 14705
conducting a hearing. 14706

If the court rejects an initial request for release under 14707
this division by the child or the child's parent, the child or the 14708
child's parent may make one or more subsequent requests for a 14709
release within the applicable period, but may make no more than 14710
one request during each period of ninety days that the child is in 14711
a secure department facility after the filing of a prior request 14712
for early release. Upon the filing of a request for release under 14713
this division subsequent to an initial request, the court shall 14714
either approve or disapprove the release by journal entry or 14715
schedule a time within thirty days after receipt of the request 14716
for a hearing on whether the child is to be released. 14717

(3) If a court schedules a hearing under division (C)(2) of 14718
this section, it may order the department to deliver the child to 14719

the court on the date set for the hearing and shall order the 14720
department to present to the court at that time a treatment plan 14721
for the child's post-institutional care. The court may conduct the 14722
hearing without the child being present. The court shall determine 14723
at the hearing whether the child should be granted a judicial 14724
release to department of youth services supervision. 14725

If the court approves the judicial release to department of 14726
youth services supervision, the department shall prepare a written 14727
treatment and rehabilitation plan for the child pursuant to 14728
division (F) of this section that shall include the conditions of 14729
the child's release. It shall send the committing court and the 14730
juvenile court of the county in which the child is placed a copy 14731
of the plan. The court of the county in which the child is placed 14732
may adopt the conditions set by the department as an order of the 14733
court and may add any additional consistent conditions it 14734
considers appropriate, provided that the court may not add any 14735
condition that decreases the level or degree of supervision 14736
specified by the department in its plan, that substantially 14737
increases the financial burden of supervision that will be 14738
experienced by the department, or that alters the placement 14739
specified by the department in its plan. If the court of the 14740
county in which the child is placed adds to the department's plan 14741
any additional conditions, it shall enter those additional 14742
conditions in its journal and shall send to the department a copy 14743
of the journal entry of the additional conditions. 14744

If the court approves the judicial release to department of 14745
youth services supervision, the actual date on which the 14746
department shall release the child is contingent upon the 14747
department finding a suitable placement for the child. If the 14748
child is to be returned to the child's home, the department shall 14749
return the child on the date that the court schedules for the 14750
child's release or shall bear the expense of any additional time 14751

that the child remains in a department facility. If the child is 14752
unable to return to the child's home, the department shall 14753
exercise reasonable diligence in finding a suitable placement for 14754
the child, and the child shall remain in a department facility 14755
while the department finds the suitable placement. 14756

(D)(1) Subject to division (D)(3) of this section, the court 14757
that commits a delinquent child to the department of youth 14758
services may grant judicial release of the child under this 14759
division at any time after the expiration of one of the following 14760
periods of time: 14761

(a) Except as otherwise provided in division (D)(1)(b) of 14762
this section, if the child was committed to the department for a 14763
prescribed minimum period and a maximum period not to exceed the 14764
child's attainment of twenty-one years, the court may grant 14765
judicial release of the child at any time after the expiration of 14766
the prescribed minimum term for which the child was committed to 14767
the department. 14768

(b) If the child was committed to the department for both one 14769
or more definite periods under division (A), (B), (C), or (D) of 14770
section 2152.17 of the Revised Code and a period of the type 14771
described in division (D)(1)(a) of this section, all of the 14772
prescribed minimum periods of commitment imposed under division 14773
(A), (B), (C), or (D) of section 2152.17 of the Revised Code and 14774
the prescribed period of commitment of the type described in 14775
division (D)(1)(a) of this section shall be aggregated for 14776
purposes of this division, and the court may grant judicial 14777
release of the child at any time after the expiration of one year 14778
after the child begins serving the aggregate period of commitment. 14779

(2) If a court grants a judicial release of a child under 14780
division (D)(1) of this section, the release shall be a judicial 14781
release to department of youth services supervision, if the 14782
release is granted during a period described in division (C)(1) of 14783

this section, and the second and third paragraphs of division 14784
(C)(3) of this section apply regarding the release. In all other 14785
cases, the release shall be a judicial release to court 14786
supervision, and the second paragraph of division (B)(3) of this 14787
section applies regarding the release. 14788

(3) A court at the time of making the disposition of a child 14789
shall provide notice in the order of disposition that the judge is 14790
retaining jurisdiction over the child for the purpose of a 14791
possible grant of judicial release of the child under division 14792
(D)(1) of this section. The failure of a court to provide this 14793
notice does not affect the authority of the court to grant a 14794
judicial release under that division and does not constitute 14795
grounds for setting aside the child's delinquent child 14796
adjudication or disposition or for granting any post-adjudication 14797
relief to the child. 14798

(4) The department of youth services, a child committed to 14799
the department, or the parents of the child, during a period 14800
specified in division (D)(1) of this section, may request the 14801
court that committed the child to grant a judicial release of the 14802
child under that division. Upon receipt of a request for judicial 14803
release of a child under this division from the department, the 14804
child, or the child's parent, or upon its own motion, the court 14805
that committed the child shall do one of the following: 14806

(a) Approve the request by journal entry; 14807

(b) Schedule within thirty days after the request is received 14808
a time for a hearing on whether the child is to be released; 14809

(c) Reject the request by journal entry without conducting a 14810
hearing. 14811

If the court rejects an initial request for a release under 14812
this division by the child or the child's parent, division (C)(2) 14813
of this section applies regarding the making of additional 14814

requests. 14815

If the court schedules a hearing under this division to 14816
consider the judicial release, the first paragraph of division 14817
(B)(3) of this section applies regarding the hearing. 14818

(E) If a child is released under division (B), (C), or (D) of 14819
this section and the court of the county in which the child is 14820
placed has reason to believe that the child's department is not in 14821
accordance with the conditions of the child's judicial release, 14822
the court of the county in which the child is placed shall 14823
schedule a time for a hearing to determine whether the child 14824
violated any of the post-release conditions, and, if the child was 14825
released under division (C) of this section or under division (D) 14826
of this section under department supervision, divisions (A) to (E) 14827
of section 5139.52 of the Revised Code apply regarding the child. 14828

If that court determines at the hearing that the child 14829
violated any of the post-release conditions, the court, if it 14830
determines that the violation was a serious violation, may order 14831
the child to be returned to the department for 14832
institutionalization, consistent with the original order of 14833
commitment of the child, or in any case may make any other 14834
disposition of the child authorized by law that the court 14835
considers proper. If the court of the county in which the child is 14836
placed orders the child to be returned to a department of youth 14837
services institution, the time during which the child was held in 14838
a secure department facility prior to the child's judicial release 14839
shall be considered as time served in fulfilling the prescribed 14840
period of institutionalization that is applicable to the child 14841
under the child's original order of commitment. If the court 14842
orders the child returned to a department institution, the child 14843
shall remain in institutional care for a minimum of three months 14844
or until the child successfully completes a revocation program of 14845
a duration of not less than thirty days operated either by the 14846

department or by an entity with which the department has 14847
contracted to provide a revocation program. 14848

(F) The department of youth services, prior to the release of 14849
a child pursuant to division (C) of this section or pursuant to 14850
division (D) of this section on department supervision, shall do 14851
all of the following: 14852

(1) After reviewing the child's rehabilitative progress 14853
history and medical and educational records, prepare a written 14854
treatment and rehabilitation plan for the child that includes 14855
conditions of the release; 14856

(2) Completely discuss the conditions of the plan prepared 14857
pursuant to division (F)(1) of this section and the possible 14858
penalties for violation of the plan with the child and the child's 14859
parents, guardian, or legal custodian; 14860

(3) Have the plan prepared pursuant to division (F)(1) of 14861
this section signed by the child, the child's parents, legal 14862
guardian, or custodian, and any authority or person that is to 14863
supervise, control, and provide supportive assistance to the child 14864
at the time of the child's release pursuant to division (C) or (D) 14865
of this section; 14866

(4) Prior to the child's release, file a copy of the 14867
treatment plan prepared pursuant to division (F)(1) of this 14868
section with the committing court and the juvenile court of the 14869
county in which the child is to be placed. 14870

(G) The department of youth services shall file a written 14871
progress report with the committing court regarding each child 14872
released pursuant to division (C) of this section or released 14873
pursuant to division (D) of this section on judicial release to 14874
department supervision at least once every thirty days unless 14875
specifically directed otherwise by the court. The report shall 14876
indicate the treatment and rehabilitative progress of the child 14877

and the child's family, if applicable, and shall include any 14878
suggestions for altering the program, custody, living 14879
arrangements, or treatment. The department shall retain legal 14880
custody of a child so released until it discharges the child or 14881
until the custody is terminated as otherwise provided by law. 14882

(H) When a child is committed to the legal custody of the 14883
department of youth services, the court retains jurisdiction to 14884
perform the functions specified in section 5139.51 of the Revised 14885
Code with respect to the granting of supervised release by the 14886
release authority and to perform the functions specified in 14887
section 5139.52 of the Revised Code with respect to violations of 14888
the conditions of supervised release granted by the release 14889
authority and to the revocation of supervised release granted by 14890
the release authority. 14891

Sec. 2301.03. (A) In Franklin county, the judges of the court 14892
of common pleas whose terms begin on January 1, 1953, January 2, 14893
1953, January 5, 1969, January 5, 1977, and January 2, 1997, and 14894
successors, shall have the same qualifications, exercise the same 14895
powers and jurisdiction, and receive the same compensation as 14896
other judges of the court of common pleas of Franklin county and 14897
shall be elected and designated as judges of the court of common 14898
pleas, division of domestic relations. They shall have all the 14899
powers relating to juvenile courts, and all cases under Chapters 14900
2151. and 2152. of the Revised Code, all parentage proceedings 14901
under Chapter 3111. of the Revised Code over which the juvenile 14902
court has jurisdiction, and all divorce, dissolution of marriage, 14903
legal separation, and annulment cases shall be assigned to them. 14904
In addition to the judge's regular duties, the judge who is senior 14905
in point of service shall serve on the children services board and 14906
the county advisory board and shall be the administrator of the 14907
domestic relations division and its subdivisions and departments. 14908
14909

(B) In Hamilton county: 14910

(1) The judge of the court of common pleas, whose term begins 14911
on January 1, 1957, and successors, and the judge of the court of 14912
common pleas, whose term begins on February 14, 1967, and 14913
successors, shall be the juvenile judges as provided in Chapters 14914
2151. and 2152. of the Revised Code, with the powers and 14915
jurisdiction conferred by those chapters. 14916

(2) The judges of the court of common pleas whose terms begin 14917
on January 5, 1957, January 16, 1981, and July 1, 1991, and 14918
successors, shall be elected and designated as judges of the court 14919
of common pleas, division of domestic relations, and shall have 14920
assigned to them all divorce, dissolution of marriage, legal 14921
separation, and annulment cases coming before the court. On or 14922
after the first day of July and before the first day of August of 14923
1991 and each year thereafter, a majority of the judges of the 14924
division of domestic relations shall elect one of the judges of 14925
the division as administrative judge of that division. If a 14926
majority of the judges of the division of domestic relations are 14927
unable for any reason to elect an administrative judge for the 14928
division before the first day of August, a majority of the judges 14929
of the Hamilton county court of common pleas, as soon as possible 14930
after that date, shall elect one of the judges of the division of 14931
domestic relations as administrative judge of that division. The 14932
term of the administrative judge shall begin on the earlier of the 14933
first day of August of the year in which the administrative judge 14934
is elected or the date on which the administrative judge is 14935
elected by a majority of the judges of the Hamilton county court 14936
of common pleas and shall terminate on the date on which the 14937
administrative judge's successor is elected in the following year. 14938

In addition to the judge's regular duties, the administrative 14939
judge of the division of domestic relations shall be the 14940
administrator of the domestic relations division and its 14941

subdivisions and departments and shall have charge of the 14942
employment, assignment, and supervision of the personnel of the 14943
division engaged in handling, servicing, or investigating divorce, 14944
dissolution of marriage, legal separation, and annulment cases, 14945
including any referees considered necessary by the judges in the 14946
discharge of their various duties. 14947

The administrative judge of the division of domestic 14948
relations also shall designate the title, compensation, expense 14949
allowances, hours, leaves of absence, and vacations of the 14950
personnel of the division, and shall fix the duties of its 14951
personnel. The duties of the personnel, in addition to those 14952
provided for in other sections of the Revised Code, shall include 14953
the handling, servicing, and investigation of divorce, dissolution 14954
of marriage, legal separation, and annulment cases and counseling 14955
and conciliation services that may be made available to persons 14956
requesting them, whether or not the persons are parties to an 14957
action pending in the division. 14958

The board of county commissioners shall appropriate the sum 14959
of money each year as will meet all the administrative expenses of 14960
the division of domestic relations, including reasonable expenses 14961
of the domestic relations judges and the division counselors and 14962
other employees designated to conduct the handling, servicing, and 14963
investigation of divorce, dissolution of marriage, legal 14964
separation, and annulment cases, conciliation and counseling, and 14965
all matters relating to those cases and counseling, and the 14966
expenses involved in the attendance of division personnel at 14967
domestic relations and welfare conferences designated by the 14968
division, and the further sum each year as will provide for the 14969
adequate operation of the division of domestic relations. 14970

The compensation and expenses of all employees and the salary 14971
and expenses of the judges shall be paid by the county treasurer 14972
from the money appropriated for the operation of the division, 14973

upon the warrant of the county auditor, certified to by the 14974
administrative judge of the division of domestic relations. 14975

The summonses, warrants, citations, subpoenas, and other 14976
writs of the division may issue to a bailiff, constable, or staff 14977
investigator of the division or to the sheriff of any county or 14978
any marshal, constable, or police officer, and the provisions of 14979
law relating to the subpoenaing of witnesses in other cases shall 14980
apply insofar as they are applicable. When a summons, warrant, 14981
citation, subpoena, or other writ is issued to an officer, other 14982
than a bailiff, constable, or staff investigator of the division, 14983
the expense of serving it shall be assessed as a part of the costs 14984
in the case involved. 14985

(3) The judge of the court of common pleas of Hamilton county 14986
whose term begins on January 3, 1997, and the successors to that 14987
judge shall each be elected and designated as the drug court judge 14988
of the court of common pleas of Hamilton county. The drug court 14989
judge may accept or reject any case referred to the drug court 14990
judge under division (B)(3) of this section. After the drug court 14991
judge accepts a referred case, the drug court judge has full 14992
authority over the case, including the authority to conduct 14993
arraignment, accept pleas, enter findings and dispositions, 14994
conduct trials, order treatment, and if treatment is not 14995
successfully completed pronounce and enter sentence. 14996

A judge of the general division of the court of common pleas 14997
of Hamilton county and a judge of the Hamilton county municipal 14998
court may refer to the drug court judge any case, and any 14999
companion cases, the judge determines meet the criteria described 15000
under divisions (B)(3)(a) and (b) of this section. If the drug 15001
court judge accepts referral of a referred case, the case, and any 15002
companion cases, shall be transferred to the drug court judge. A 15003
judge may refer a case meeting the criteria described in divisions 15004
(B)(3)(a) and (b) of this section that involves a violation of a 15005

condition of a community control sanction to the drug court judge, 15006
and, if the drug court judge accepts the referral, the referring 15007
judge and the drug court judge have concurrent jurisdiction over 15008
the case. 15009

A judge of the general division of the court of common pleas 15010
of Hamilton county and a judge of the Hamilton county municipal 15011
court may refer a case to the drug court judge under division 15012
(B)(3) of this section if the judge determines that both of the 15013
following apply: 15014

(a) One of the following applies: 15015

(i) The case involves a drug abuse offense, as defined in 15016
section 2925.01 of the Revised Code, that is a felony of the third 15017
or fourth degree if the offense is committed prior to July 1, 15018
1996, a felony of the third, fourth, or fifth degree if the 15019
offense is committed on or after July 1, 1996, or a misdemeanor. 15020

(ii) The case involves a theft offense, as defined in section 15021
2913.01 of the Revised Code, that is a felony of the third or 15022
fourth degree if the offense is committed prior to July 1, 1996, a 15023
felony of the third, fourth, or fifth degree if the offense is 15024
committed on or after July 1, 1996, or a misdemeanor, and the 15025
defendant is drug or alcohol dependent or in danger of becoming 15026
drug or alcohol dependent and would benefit from treatment. 15027

(b) All of the following apply: 15028

(i) The case involves an offense for which a community 15029
control sanction may be imposed or is a case in which a mandatory 15030
prison term or a mandatory jail term is not required to be 15031
imposed. 15032

(ii) The defendant has no history of violent behavior. 15033

(iii) The defendant has no history of mental illness. 15034

(iv) The defendant's current or past behavior, or both, is 15035

drug or alcohol driven.	15036
(v) The defendant demonstrates a sincere willingness to participate in a fifteen-month treatment process.	15037 15038
(vi) The defendant has no acute health condition.	15039
(vii) If the defendant is incarcerated, the county prosecutor approves of the referral.	15040 15041
(4) If the administrative judge of the court of common pleas of Hamilton county determines that the volume of cases pending before the drug court judge does not constitute a sufficient caseload for the drug court judge, the administrative judge, in accordance with the Rules of Superintendence for Courts of Common Pleas, shall assign individual cases to the drug court judge from the general docket of the court. If the assignments so occur, the administrative judge shall cease the assignments when the administrative judge determines that the volume of cases pending before the drug court judge constitutes a sufficient caseload for the drug court judge.	15042 15043 15044 15045 15046 15047 15048 15049 15050 15051 15052
(5) As used in division (B) of this section, "community control sanction," "mandatory prison term," and "mandatory jail term" have the same meanings as in section 2929.01 of the Revised Code.	15053 15054 15055 15056
(C)(1) In Lorain county:	15057
(a) The judges of the court of common pleas whose terms begin on January 3, 1959, January 4, 1989, and January 2, 1999, and successors, and the judge of the court of common pleas whose term begins on February 9, 2009, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Lorain county and shall be elected and designated as the judges of the court of common pleas, division of domestic relations. The judges of the court of common pleas whose terms begin on January	15058 15059 15060 15061 15062 15063 15064 15065 15066

3, 1959, January 4, 1989, and January 2, 1999, and successors, 15067
shall have all of the powers relating to juvenile courts, and all 15068
cases under Chapters 2151. and 2152. of the Revised Code, all 15069
parentage proceedings over which the juvenile court has 15070
jurisdiction, and all divorce, dissolution of marriage, legal 15071
separation, and annulment cases shall be assigned to them, except 15072
cases that for some special reason are assigned to some other 15073
judge of the court of common pleas. From February 9, 2009, through 15074
September 28, 2009, the judge of the court of common pleas whose 15075
term begins on February 9, 2009, shall have all the powers 15076
relating to juvenile courts, and cases under Chapters 2151. and 15077
2152. of the Revised Code, parentage proceedings over which the 15078
juvenile court has jurisdiction, and divorce, dissolution of 15079
marriage, legal separation, and annulment cases shall be assigned 15080
to that judge, except cases that for some special reason are 15081
assigned to some other judge of the court of common pleas. 15082

(b) From January 1, 2006, through September 28, 2009, the 15083
judges of the court of common pleas, division of domestic 15084
relations, in addition to the powers and jurisdiction set forth in 15085
division (C)(1)(a) of this section, shall have jurisdiction over 15086
matters that are within the jurisdiction of the probate court 15087
under Chapter 2101. and other provisions of the Revised Code. 15088

(c) The judge of the court of common pleas, division of 15089
domestic relations, whose term begins on February 9, 2009, is the 15090
successor to the probate judge who was elected in 2002 for a term 15091
that began on February 9, 2003. After September 28, 2009, the 15092
judge of the court of common pleas, division of domestic 15093
relations, whose term begins on February 9, 2009, shall be the 15094
probate judge. 15095

(2)(a) From February 9, 2009, through September 28, 2009, 15096
with respect to Lorain county, all references in law to the 15097
probate court shall be construed as references to the court of 15098

common pleas, division of domestic relations, and all references 15099
to the probate judge shall be construed as references to the 15100
judges of the court of common pleas, division of domestic 15101
relations. 15102

(b) From February 9, 2009, through September 28, 2009, with 15103
respect to Lorain county, all references in law to the clerk of 15104
the probate court shall be construed as references to the judge 15105
who is serving pursuant to Rule 4 of the Rules of Superintendence 15106
for the Courts of Ohio as the administrative judge of the court of 15107
common pleas, division of domestic relations. 15108

(D) In Lucas county: 15109

(1) The judges of the court of common pleas whose terms begin 15110
on January 1, 1955, and January 3, 1965, and successors, shall 15111
have the same qualifications, exercise the same powers and 15112
jurisdiction, and receive the same compensation as other judges of 15113
the court of common pleas of Lucas county and shall be elected and 15114
designated as judges of the court of common pleas, division of 15115
domestic relations. All divorce, dissolution of marriage, legal 15116
separation, and annulment cases shall be assigned to them. 15117

The judge of the division of domestic relations, senior in 15118
point of service, shall be considered as the presiding judge of 15119
the court of common pleas, division of domestic relations, and 15120
shall be charged exclusively with the assignment and division of 15121
the work of the division and the employment and supervision of all 15122
other personnel of the domestic relations division. 15123

(2) The judges of the court of common pleas whose terms begin 15124
on January 5, 1977, and January 2, 1991, and successors shall have 15125
the same qualifications, exercise the same powers and 15126
jurisdiction, and receive the same compensation as other judges of 15127
the court of common pleas of Lucas county, shall be elected and 15128
designated as judges of the court of common pleas, juvenile 15129

division, and shall be the juvenile judges as provided in Chapters 15130
2151. and 2152. of the Revised Code with the powers and 15131
jurisdictions conferred by those chapters. In addition to the 15132
judge's regular duties, the judge of the court of common pleas, 15133
juvenile division, senior in point of service, shall be the 15134
administrator of the juvenile division and its subdivisions and 15135
departments and shall have charge of the employment, assignment, 15136
and supervision of the personnel of the division engaged in 15137
handling, servicing, or investigating juvenile cases, including 15138
any referees considered necessary by the judges of the division in 15139
the discharge of their various duties. 15140

The judge of the court of common pleas, juvenile division, 15141
senior in point of service, also shall designate the title, 15142
compensation, expense allowance, hours, leaves of absence, and 15143
vacation of the personnel of the division and shall fix the duties 15144
of the personnel of the division. The duties of the personnel, in 15145
addition to other statutory duties include the handling, 15146
servicing, and investigation of juvenile cases and counseling and 15147
conciliation services that may be made available to persons 15148
requesting them, whether or not the persons are parties to an 15149
action pending in the division. 15150

(3) If one of the judges of the court of common pleas, 15151
division of domestic relations, or one of the judges of the 15152
juvenile division is sick, absent, or unable to perform that 15153
judge's judicial duties or the volume of cases pending in that 15154
judge's division necessitates it, the duties shall be performed by 15155
the judges of the other of those divisions. 15156

(E) In Mahoning county: 15157

(1) The judge of the court of common pleas whose term began 15158
on January 1, 1955, and successors, shall have the same 15159
qualifications, exercise the same powers and jurisdiction, and 15160
receive the same compensation as other judges of the court of 15161

common pleas of Mahoning county, shall be elected and designated 15162
as judge of the court of common pleas, division of domestic 15163
relations, and shall be assigned all the divorce, dissolution of 15164
marriage, legal separation, and annulment cases coming before the 15165
court. In addition to the judge's regular duties, the judge of the 15166
court of common pleas, division of domestic relations, shall be 15167
the administrator of the domestic relations division and its 15168
subdivisions and departments and shall have charge of the 15169
employment, assignment, and supervision of the personnel of the 15170
division engaged in handling, servicing, or investigating divorce, 15171
dissolution of marriage, legal separation, and annulment cases, 15172
including any referees considered necessary in the discharge of 15173
the various duties of the judge's office. 15174

The judge also shall designate the title, compensation, 15175
expense allowances, hours, leaves of absence, and vacations of the 15176
personnel of the division and shall fix the duties of the 15177
personnel of the division. The duties of the personnel, in 15178
addition to other statutory duties, include the handling, 15179
servicing, and investigation of divorce, dissolution of marriage, 15180
legal separation, and annulment cases and counseling and 15181
conciliation services that may be made available to persons 15182
requesting them, whether or not the persons are parties to an 15183
action pending in the division. 15184

(2) The judge of the court of common pleas whose term began 15185
on January 2, 1969, and successors, shall have the same 15186
qualifications, exercise the same powers and jurisdiction, and 15187
receive the same compensation as other judges of the court of 15188
common pleas of Mahoning county, shall be elected and designated 15189
as judge of the court of common pleas, juvenile division, and 15190
shall be the juvenile judge as provided in Chapters 2151. and 15191
2152. of the Revised Code, with the powers and jurisdictions 15192
conferred by those chapters. In addition to the judge's regular 15193

duties, the judge of the court of common pleas, juvenile division, 15194
shall be the administrator of the juvenile division and its 15195
subdivisions and departments and shall have charge of the 15196
employment, assignment, and supervision of the personnel of the 15197
division engaged in handling, servicing, or investigating juvenile 15198
cases, including any referees considered necessary by the judge in 15199
the discharge of the judge's various duties. 15200

The judge also shall designate the title, compensation, 15201
expense allowances, hours, leaves of absence, and vacation of the 15202
personnel of the division and shall fix the duties of the 15203
personnel of the division. The duties of the personnel, in 15204
addition to other statutory duties, include the handling, 15205
servicing, and investigation of juvenile cases and counseling and 15206
conciliation services that may be made available to persons 15207
requesting them, whether or not the persons are parties to an 15208
action pending in the division. 15209

(3) If a judge of the court of common pleas, division of 15210
domestic relations or juvenile division, is sick, absent, or 15211
unable to perform that judge's judicial duties, or the volume of 15212
cases pending in that judge's division necessitates it, that 15213
judge's duties shall be performed by another judge of the court of 15214
common pleas. 15215

(F) In Montgomery county: 15216

(1) The judges of the court of common pleas whose terms begin 15217
on January 2, 1953, and January 4, 1977, and successors, shall 15218
have the same qualifications, exercise the same powers and 15219
jurisdiction, and receive the same compensation as other judges of 15220
the court of common pleas of Montgomery county and shall be 15221
elected and designated as judges of the court of common pleas, 15222
division of domestic relations. These judges shall have assigned 15223
to them all divorce, dissolution of marriage, legal separation, 15224
and annulment cases. 15225

The judge of the division of domestic relations, senior in point of service, shall be charged exclusively with the assignment and division of the work of the division and shall have charge of the employment and supervision of the personnel of the division engaged in handling, servicing, or investigating divorce, dissolution of marriage, legal separation, and annulment cases, including any necessary referees, except those employees who may be appointed by the judge, junior in point of service, under this section and sections 2301.12, and 2301.18, ~~and 2301.19~~ of the Revised Code. The judge of the division of domestic relations, senior in point of service, also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties.

(2) The judges of the court of common pleas whose terms begin on January 1, 1953, and January 1, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Montgomery county, shall be elected and designated as judges of the court of common pleas, juvenile division, and shall be, and have the powers and jurisdiction of, the juvenile judge as provided in Chapters 2151. and 2152. of the Revised Code.

In addition to the judge's regular duties, the judge of the court of common pleas, juvenile division, senior in point of service, shall be the administrator of the juvenile division and its subdivisions and departments and shall have charge of the employment, assignment, and supervision of the personnel of the juvenile division, including any necessary referees, who are engaged in handling, servicing, or investigating juvenile cases. The judge, senior in point of service, also shall designate the title, compensation, expense allowances, hours, leaves of absence,

and vacation of the personnel of the division and shall fix their 15258
duties. The duties of the personnel, in addition to other 15259
statutory duties, shall include the handling, servicing, and 15260
investigation of juvenile cases and of any counseling and 15261
conciliation services that are available upon request to persons, 15262
whether or not they are parties to an action pending in the 15263
division. 15264

If one of the judges of the court of common pleas, division 15265
of domestic relations, or one of the judges of the court of common 15266
pleas, juvenile division, is sick, absent, or unable to perform 15267
that judge's duties or the volume of cases pending in that judge's 15268
division necessitates it, the duties of that judge may be 15269
performed by the judge or judges of the other of those divisions. 15270

(G) In Richland county: 15271

(1) The judge of the court of common pleas whose term begins 15272
on January 1, 1957, and successors, shall have the same 15273
qualifications, exercise the same powers and jurisdiction, and 15274
receive the same compensation as the other judges of the court of 15275
common pleas of Richland county and shall be elected and 15276
designated as judge of the court of common pleas, division of 15277
domestic relations. That judge shall be assigned and hear all 15278
divorce, dissolution of marriage, legal separation, and annulment 15279
cases, all domestic violence cases arising under section 3113.31 15280
of the Revised Code, and all post-decree proceedings arising from 15281
any case pertaining to any of those matters. The division of 15282
domestic relations has concurrent jurisdiction with the juvenile 15283
division of the court of common pleas of Richland county to 15284
determine the care, custody, or control of any child not a ward of 15285
another court of this state, and to hear and determine a request 15286
for an order for the support of any child if the request is not 15287
ancillary to an action for divorce, dissolution of marriage, 15288
annulment, or legal separation, a criminal or civil action 15289

involving an allegation of domestic violence, or an action for 15290
support brought under Chapter 3115. of the Revised Code. Except in 15291
cases that are subject to the exclusive original jurisdiction of 15292
the juvenile court, the judge of the division of domestic 15293
relations shall be assigned and hear all cases pertaining to 15294
paternity or parentage, the care, custody, or control of children, 15295
parenting time or visitation, child support, or the allocation of 15296
parental rights and responsibilities for the care of children, all 15297
proceedings arising under Chapter 3111. of the Revised Code, all 15298
proceedings arising under the uniform interstate family support 15299
act contained in Chapter 3115. of the Revised Code, and all 15300
post-decree proceedings arising from any case pertaining to any of 15301
those matters. 15302

In addition to the judge's regular duties, the judge of the 15303
court of common pleas, division of domestic relations, shall be 15304
the administrator of the domestic relations division and its 15305
subdivisions and departments. The judge shall have charge of the 15306
employment, assignment, and supervision of the personnel of the 15307
domestic relations division, including any magistrates the judge 15308
considers necessary for the discharge of the judge's duties. The 15309
judge shall also designate the title, compensation, expense 15310
allowances, hours, leaves of absence, vacation, and other 15311
employment-related matters of the personnel of the division and 15312
shall fix their duties. 15313

(2) The judge of the court of common pleas whose term begins 15314
on January 3, 2005, and successors, shall have the same 15315
qualifications, exercise the same powers and jurisdiction, and 15316
receive the same compensation as other judges of the court of 15317
common pleas of Richland county, shall be elected and designated 15318
as judge of the court of common pleas, juvenile division, and 15319
shall be, and have the powers and jurisdiction of, the juvenile 15320
judge as provided in Chapters 2151. and 2152. of the Revised Code. 15321

Except in cases that are subject to the exclusive original 15322
jurisdiction of the juvenile court, the judge of the juvenile 15323
division shall not have jurisdiction or the power to hear, and 15324
shall not be assigned, any case pertaining to paternity or 15325
parentage, the care, custody, or control of children, parenting 15326
time or visitation, child support, or the allocation of parental 15327
rights and responsibilities for the care of children or any 15328
post-decree proceeding arising from any case pertaining to any of 15329
those matters. The judge of the juvenile division shall not have 15330
jurisdiction or the power to hear, and shall not be assigned, any 15331
proceeding under the uniform interstate family support act 15332
contained in Chapter 3115. of the Revised Code. 15333

In addition to the judge's regular duties, the judge of the 15334
juvenile division shall be the administrator of the juvenile 15335
division and its subdivisions and departments. The judge shall 15336
have charge of the employment, assignment, and supervision of the 15337
personnel of the juvenile division who are engaged in handling, 15338
servicing, or investigating juvenile cases, including any 15339
magistrates whom the judge considers necessary for the discharge 15340
of the judge's various duties. 15341

The judge of the juvenile division also shall designate the 15342
title, compensation, expense allowances, hours, leaves of absence, 15343
and vacation of the personnel of the division and shall fix their 15344
duties. The duties of the personnel, in addition to other 15345
statutory duties, include the handling, servicing, and 15346
investigation of juvenile cases and providing any counseling, 15347
conciliation, and mediation services that the court makes 15348
available to persons, whether or not the persons are parties to an 15349
action pending in the court, who request the services. 15350

(H) In Stark county, the judges of the court of common pleas 15351
whose terms begin on January 1, 1953, January 2, 1959, and January 15352
1, 1993, and successors, shall have the same qualifications, 15353

exercise the same powers and jurisdiction, and receive the same 15354
compensation as other judges of the court of common pleas of Stark 15355
county and shall be elected and designated as judges of the court 15356
of common pleas, division of domestic relations. They shall have 15357
all the powers relating to juvenile courts, and all cases under 15358
Chapters 2151. and 2152. of the Revised Code, all parentage 15359
proceedings over which the juvenile court has jurisdiction, and 15360
all divorce, dissolution of marriage, legal separation, and 15361
annulment cases, except cases that are assigned to some other 15362
judge of the court of common pleas for some special reason, shall 15363
be assigned to the judges. 15364

The judge of the division of domestic relations, second most 15365
senior in point of service, shall have charge of the employment 15366
and supervision of the personnel of the division engaged in 15367
handling, servicing, or investigating divorce, dissolution of 15368
marriage, legal separation, and annulment cases, and necessary 15369
referees required for the judge's respective court. 15370

The judge of the division of domestic relations, senior in 15371
point of service, shall be charged exclusively with the 15372
administration of sections 2151.13, 2151.16, 2151.17, and 2152.71 15373
of the Revised Code and with the assignment and division of the 15374
work of the division and the employment and supervision of all 15375
other personnel of the division, including, but not limited to, 15376
that judge's necessary referees, but excepting those employees who 15377
may be appointed by the judge second most senior in point of 15378
service. The senior judge further shall serve in every other 15379
position in which the statutes permit or require a juvenile judge 15380
to serve. 15381

(I) In Summit county: 15382

(1) The judges of the court of common pleas whose terms begin 15383
on January 4, 1967, and January 6, 1993, and successors, shall 15384
have the same qualifications, exercise the same powers and 15385

jurisdiction, and receive the same compensation as other judges of 15386
the court of common pleas of Summit county and shall be elected 15387
and designated as judges of the court of common pleas, division of 15388
domestic relations. The judges of the division of domestic 15389
relations shall have assigned to them and hear all divorce, 15390
dissolution of marriage, legal separation, and annulment cases 15391
that come before the court. Except in cases that are subject to 15392
the exclusive original jurisdiction of the juvenile court, the 15393
judges of the division of domestic relations shall have assigned 15394
to them and hear all cases pertaining to paternity, custody, 15395
visitation, child support, or the allocation of parental rights 15396
and responsibilities for the care of children and all post-decree 15397
proceedings arising from any case pertaining to any of those 15398
matters. The judges of the division of domestic relations shall 15399
have assigned to them and hear all proceedings under the uniform 15400
interstate family support act contained in Chapter 3115. of the 15401
Revised Code. 15402

The judge of the division of domestic relations, senior in 15403
point of service, shall be the administrator of the domestic 15404
relations division and its subdivisions and departments and shall 15405
have charge of the employment, assignment, and supervision of the 15406
personnel of the division, including any necessary referees, who 15407
are engaged in handling, servicing, or investigating divorce, 15408
dissolution of marriage, legal separation, and annulment cases. 15409
That judge also shall designate the title, compensation, expense 15410
allowances, hours, leaves of absence, and vacations of the 15411
personnel of the division and shall fix their duties. The duties 15412
of the personnel, in addition to other statutory duties, shall 15413
include the handling, servicing, and investigation of divorce, 15414
dissolution of marriage, legal separation, and annulment cases and 15415
of any counseling and conciliation services that are available 15416
upon request to all persons, whether or not they are parties to an 15417
action pending in the division. 15418

(2) The judge of the court of common pleas whose term begins 15419
on January 1, 1955, and successors, shall have the same 15420
qualifications, exercise the same powers and jurisdiction, and 15421
receive the same compensation as other judges of the court of 15422
common pleas of Summit county, shall be elected and designated as 15423
judge of the court of common pleas, juvenile division, and shall 15424
be, and have the powers and jurisdiction of, the juvenile judge as 15425
provided in Chapters 2151. and 2152. of the Revised Code. Except 15426
in cases that are subject to the exclusive original jurisdiction 15427
of the juvenile court, the judge of the juvenile division shall 15428
not have jurisdiction or the power to hear, and shall not be 15429
assigned, any case pertaining to paternity, custody, visitation, 15430
child support, or the allocation of parental rights and 15431
responsibilities for the care of children or any post-decree 15432
proceeding arising from any case pertaining to any of those 15433
matters. The judge of the juvenile division shall not have 15434
jurisdiction or the power to hear, and shall not be assigned, any 15435
proceeding under the uniform interstate family support act 15436
contained in Chapter 3115. of the Revised Code. 15437

The juvenile judge shall be the administrator of the juvenile 15438
division and its subdivisions and departments and shall have 15439
charge of the employment, assignment, and supervision of the 15440
personnel of the juvenile division, including any necessary 15441
referees, who are engaged in handling, servicing, or investigating 15442
juvenile cases. The judge also shall designate the title, 15443
compensation, expense allowances, hours, leaves of absence, and 15444
vacation of the personnel of the division and shall fix their 15445
duties. The duties of the personnel, in addition to other 15446
statutory duties, shall include the handling, servicing, and 15447
investigation of juvenile cases and of any counseling and 15448
conciliation services that are available upon request to persons, 15449
whether or not they are parties to an action pending in the 15450
division. 15451

(J) In Trumbull county, the judges of the court of common pleas whose terms begin on January 1, 1953, and January 2, 1977, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Trumbull county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. They shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all parentage proceedings over which the juvenile court has jurisdiction, and all divorce, dissolution of marriage, legal separation, and annulment cases shall be assigned to them, except cases that for some special reason are assigned to some other judge of the court of common pleas.

(K) In Butler county:

(1) The judges of the court of common pleas whose terms begin on January 1, 1957, and January 4, 1993, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Butler county and shall be elected and designated as judges of the court of common pleas, division of domestic relations. The judges of the division of domestic relations shall have assigned to them all divorce, dissolution of marriage, legal separation, and annulment cases coming before the court, except in cases that for some special reason are assigned to some other judge of the court of common pleas. The judges of the division of domestic relations also have concurrent jurisdiction with judges of the juvenile division of the court of common pleas of Butler county with respect to and may hear cases to determine the custody, support, or custody and support of a child who is born of issue of a marriage and who is not the ward of another court of this state, cases commenced by a party of the

marriage to obtain an order requiring support of any child when 15484
the request for that order is not ancillary to an action for 15485
divorce, dissolution of marriage, annulment, or legal separation, 15486
a criminal or civil action involving an allegation of domestic 15487
violence, an action for support under Chapter 3115. of the Revised 15488
Code, or an action that is within the exclusive original 15489
jurisdiction of the juvenile division of the court of common pleas 15490
of Butler county and that involves an allegation that the child is 15491
an abused, neglected, or dependent child, and post-decree 15492
proceedings and matters arising from those types of cases. The 15493
judge senior in point of service shall be charged with the 15494
assignment and division of the work of the division and with the 15495
employment and supervision of all other personnel of the domestic 15496
relations division. 15497

The judge senior in point of service also shall designate the 15498
title, compensation, expense allowances, hours, leaves of absence, 15499
and vacations of the personnel of the division and shall fix their 15500
duties. The duties of the personnel, in addition to other 15501
statutory duties, shall include the handling, servicing, and 15502
investigation of divorce, dissolution of marriage, legal 15503
separation, and annulment cases and providing any counseling and 15504
conciliation services that the division makes available to 15505
persons, whether or not the persons are parties to an action 15506
pending in the division, who request the services. 15507

(2) The judges of the court of common pleas whose terms begin 15508
on January 3, 1987, and January 2, 2003, and successors, shall 15509
have the same qualifications, exercise the same powers and 15510
jurisdiction, and receive the same compensation as other judges of 15511
the court of common pleas of Butler county, shall be elected and 15512
designated as judges of the court of common pleas, juvenile 15513
division, and shall be the juvenile judges as provided in Chapters 15514
2151. and 2152. of the Revised Code, with the powers and 15515

jurisdictions conferred by those chapters. Except in cases that 15516
are subject to the exclusive original jurisdiction of the juvenile 15517
court, the judges of the juvenile division shall not have 15518
jurisdiction or the power to hear and shall not be assigned, but 15519
shall have the limited ability and authority to certify, any case 15520
commenced by a party of a marriage to determine the custody, 15521
support, or custody and support of a child who is born of issue of 15522
the marriage and who is not the ward of another court of this 15523
state when the request for the order in the case is not ancillary 15524
to an action for divorce, dissolution of marriage, annulment, or 15525
legal separation. The judge of the court of common pleas, juvenile 15526
division, who is senior in point of service, shall be the 15527
administrator of the juvenile division and its subdivisions and 15528
departments. The judge, senior in point of service, shall have 15529
charge of the employment, assignment, and supervision of the 15530
personnel of the juvenile division who are engaged in handling, 15531
servicing, or investigating juvenile cases, including any referees 15532
whom the judge considers necessary for the discharge of the 15533
judge's various duties. 15534

The judge, senior in point of service, also shall designate 15535
the title, compensation, expense allowances, hours, leaves of 15536
absence, and vacation of the personnel of the division and shall 15537
fix their duties. The duties of the personnel, in addition to 15538
other statutory duties, include the handling, servicing, and 15539
investigation of juvenile cases and providing any counseling and 15540
conciliation services that the division makes available to 15541
persons, whether or not the persons are parties to an action 15542
pending in the division, who request the services. 15543

(3) If a judge of the court of common pleas, division of 15544
domestic relations or juvenile division, is sick, absent, or 15545
unable to perform that judge's judicial duties or the volume of 15546
cases pending in the judge's division necessitates it, the duties 15547

of that judge shall be performed by the other judges of the 15548
domestic relations and juvenile divisions. 15549

(L)(1) In Cuyahoga county, the judges of the court of common 15550
pleas whose terms begin on January 8, 1961, January 9, 1961, 15551
January 18, 1975, January 19, 1975, and January 13, 1987, and 15552
successors, shall have the same qualifications, exercise the same 15553
powers and jurisdiction, and receive the same compensation as 15554
other judges of the court of common pleas of Cuyahoga county and 15555
shall be elected and designated as judges of the court of common 15556
pleas, division of domestic relations. They shall have all the 15557
powers relating to all divorce, dissolution of marriage, legal 15558
separation, and annulment cases, except in cases that are assigned 15559
to some other judge of the court of common pleas for some special 15560
reason. 15561

(2) The administrative judge is administrator of the domestic 15562
relations division and its subdivisions and departments and has 15563
the following powers concerning division personnel: 15564

(a) Full charge of the employment, assignment, and 15565
supervision; 15566

(b) Sole determination of compensation, duties, expenses, 15567
allowances, hours, leaves, and vacations. 15568

(3) "Division personnel" include persons employed or referees 15569
engaged in hearing, servicing, investigating, counseling, or 15570
conciliating divorce, dissolution of marriage, legal separation 15571
and annulment matters. 15572

(M) In Lake county: 15573

(1) The judge of the court of common pleas whose term begins 15574
on January 2, 1961, and successors, shall have the same 15575
qualifications, exercise the same powers and jurisdiction, and 15576
receive the same compensation as the other judges of the court of 15577
common pleas of Lake county and shall be elected and designated as 15578

judge of the court of common pleas, division of domestic 15579
relations. The judge shall be assigned all the divorce, 15580
dissolution of marriage, legal separation, and annulment cases 15581
coming before the court, except in cases that for some special 15582
reason are assigned to some other judge of the court of common 15583
pleas. The judge shall be charged with the assignment and division 15584
of the work of the division and with the employment and 15585
supervision of all other personnel of the domestic relations 15586
division. 15587

The judge also shall designate the title, compensation, 15588
expense allowances, hours, leaves of absence, and vacations of the 15589
personnel of the division and shall fix their duties. The duties 15590
of the personnel, in addition to other statutory duties, shall 15591
include the handling, servicing, and investigation of divorce, 15592
dissolution of marriage, legal separation, and annulment cases and 15593
providing any counseling and conciliation services that the 15594
division makes available to persons, whether or not the persons 15595
are parties to an action pending in the division, who request the 15596
services. 15597

(2) The judge of the court of common pleas whose term begins 15598
on January 4, 1979, and successors, shall have the same 15599
qualifications, exercise the same powers and jurisdiction, and 15600
receive the same compensation as other judges of the court of 15601
common pleas of Lake county, shall be elected and designated as 15602
judge of the court of common pleas, juvenile division, and shall 15603
be the juvenile judge as provided in Chapters 2151. and 2152. of 15604
the Revised Code, with the powers and jurisdictions conferred by 15605
those chapters. The judge of the court of common pleas, juvenile 15606
division, shall be the administrator of the juvenile division and 15607
its subdivisions and departments. The judge shall have charge of 15608
the employment, assignment, and supervision of the personnel of 15609
the juvenile division who are engaged in handling, servicing, or 15610

investigating juvenile cases, including any referees whom the judge considers necessary for the discharge of the judge's various duties. 15611
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The judge also shall designate the title, compensation, expense allowances, hours, leaves of absence, and vacation of the personnel of the division and shall fix their duties. The duties of the personnel, in addition to other statutory duties, include the handling, servicing, and investigation of juvenile cases and providing any counseling and conciliation services that the division makes available to persons, whether or not the persons are parties to an action pending in the division, who request the services. 15614
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(3) If a judge of the court of common pleas, division of domestic relations or juvenile division, is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the judge's division necessitates it, the duties of that judge shall be performed by the other judges of the domestic relations and juvenile divisions. 15623
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(N) In Erie county: 15629

(1) The judge of the court of common pleas whose term begins on January 2, 1971, and the successors to that judge whose terms begin before January 2, 2007, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judge of the court of common pleas of Erie county and shall be elected and designated as judge of the court of common pleas, division of domestic relations. The judge shall have all the powers relating to juvenile courts, and shall be assigned all cases under Chapters 2151. and 2152. of the Revised Code, parentage proceedings over which the juvenile court has jurisdiction, and divorce, dissolution of marriage, legal separation, and annulment cases, except cases that for some special reason are assigned to some other judge. 15630
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On or after January 2, 2007, the judge of the court of common 15643
pleas who is elected in 2006 shall be the successor to the judge 15644
of the domestic relations division whose term expires on January 15645
1, 2007, shall be designated as judge of the court of common 15646
pleas, juvenile division, and shall be the juvenile judge as 15647
provided in Chapters 2151. and 2152. of the Revised Code with the 15648
powers and jurisdictions conferred by those chapters. 15649

(2) The judge of the court of common pleas, general division, 15650
whose term begins on January 1, 2005, and successors, the judge of 15651
the court of common pleas, general division whose term begins on 15652
January 2, 2005, and successors, and the judge of the court of 15653
common pleas, general division, whose term begins February 9, 15654
2009, and successors, shall have assigned to them, in addition to 15655
all matters that are within the jurisdiction of the general 15656
division of the court of common pleas, all divorce, dissolution of 15657
marriage, legal separation, and annulment cases coming before the 15658
court, and all matters that are within the jurisdiction of the 15659
probate court under Chapter 2101., and other provisions, of the 15660
Revised Code. 15661

(0) In Greene county: 15662

(1) The judge of the court of common pleas whose term begins 15663
on January 1, 1961, and successors, shall have the same 15664
qualifications, exercise the same powers and jurisdiction, and 15665
receive the same compensation as the other judges of the court of 15666
common pleas of Greene county and shall be elected and designated 15667
as the judge of the court of common pleas, division of domestic 15668
relations. The judge shall be assigned all divorce, dissolution of 15669
marriage, legal separation, annulment, uniform reciprocal support 15670
enforcement, and domestic violence cases and all other cases 15671
related to domestic relations, except cases that for some special 15672
reason are assigned to some other judge of the court of common 15673
pleas. 15674

The judge shall be charged with the assignment and division 15675
of the work of the division and with the employment and 15676
supervision of all other personnel of the division. The judge also 15677
shall designate the title, compensation, hours, leaves of absence, 15678
and vacations of the personnel of the division and shall fix their 15679
duties. The duties of the personnel of the division, in addition 15680
to other statutory duties, shall include the handling, servicing, 15681
and investigation of divorce, dissolution of marriage, legal 15682
separation, and annulment cases and the provision of counseling 15683
and conciliation services that the division considers necessary 15684
and makes available to persons who request the services, whether 15685
or not the persons are parties in an action pending in the 15686
division. The compensation for the personnel shall be paid from 15687
the overall court budget and shall be included in the 15688
appropriations for the existing judges of the general division of 15689
the court of common pleas. 15690

(2) The judge of the court of common pleas whose term begins 15691
on January 1, 1995, and successors, shall have the same 15692
qualifications, exercise the same powers and jurisdiction, and 15693
receive the same compensation as the other judges of the court of 15694
common pleas of Greene county, shall be elected and designated as 15695
judge of the court of common pleas, juvenile division, and, on or 15696
after January 1, 1995, shall be the juvenile judge as provided in 15697
Chapters 2151. and 2152. of the Revised Code with the powers and 15698
jurisdiction conferred by those chapters. The judge of the court 15699
of common pleas, juvenile division, shall be the administrator of 15700
the juvenile division and its subdivisions and departments. The 15701
judge shall have charge of the employment, assignment, and 15702
supervision of the personnel of the juvenile division who are 15703
engaged in handling, servicing, or investigating juvenile cases, 15704
including any referees whom the judge considers necessary for the 15705
discharge of the judge's various duties. 15706

The judge also shall designate the title, compensation, 15707
expense allowances, hours, leaves of absence, and vacation of the 15708
personnel of the division and shall fix their duties. The duties 15709
of the personnel, in addition to other statutory duties, include 15710
the handling, servicing, and investigation of juvenile cases and 15711
providing any counseling and conciliation services that the court 15712
makes available to persons, whether or not the persons are parties 15713
to an action pending in the court, who request the services. 15714

(3) If one of the judges of the court of common pleas, 15715
general division, is sick, absent, or unable to perform that 15716
judge's judicial duties or the volume of cases pending in the 15717
general division necessitates it, the duties of that judge of the 15718
general division shall be performed by the judge of the division 15719
of domestic relations and the judge of the juvenile division. 15720

(P) In Portage county, the judge of the court of common 15721
pleas, whose term begins January 2, 1987, and successors, shall 15722
have the same qualifications, exercise the same powers and 15723
jurisdiction, and receive the same compensation as the other 15724
judges of the court of common pleas of Portage county and shall be 15725
elected and designated as judge of the court of common pleas, 15726
division of domestic relations. The judge shall be assigned all 15727
divorce, dissolution of marriage, legal separation, and annulment 15728
cases coming before the court, except in cases that for some 15729
special reason are assigned to some other judge of the court of 15730
common pleas. The judge shall be charged with the assignment and 15731
division of the work of the division and with the employment and 15732
supervision of all other personnel of the domestic relations 15733
division. 15734

The judge also shall designate the title, compensation, 15735
expense allowances, hours, leaves of absence, and vacations of the 15736
personnel of the division and shall fix their duties. The duties 15737
of the personnel, in addition to other statutory duties, shall 15738

include the handling, servicing, and investigation of divorce, 15739
dissolution of marriage, legal separation, and annulment cases and 15740
providing any counseling and conciliation services that the 15741
division makes available to persons, whether or not the persons 15742
are parties to an action pending in the division, who request the 15743
services. 15744

(Q) In Clermont county, the judge of the court of common 15745
pleas, whose term begins January 2, 1987, and successors, shall 15746
have the same qualifications, exercise the same powers and 15747
jurisdiction, and receive the same compensation as the other 15748
judges of the court of common pleas of Clermont county and shall 15749
be elected and designated as judge of the court of common pleas, 15750
division of domestic relations. The judge shall be assigned all 15751
divorce, dissolution of marriage, legal separation, and annulment 15752
cases coming before the court, except in cases that for some 15753
special reason are assigned to some other judge of the court of 15754
common pleas. The judge shall be charged with the assignment and 15755
division of the work of the division and with the employment and 15756
supervision of all other personnel of the domestic relations 15757
division. 15758

The judge also shall designate the title, compensation, 15759
expense allowances, hours, leaves of absence, and vacations of the 15760
personnel of the division and shall fix their duties. The duties 15761
of the personnel, in addition to other statutory duties, shall 15762
include the handling, servicing, and investigation of divorce, 15763
dissolution of marriage, legal separation, and annulment cases and 15764
providing any counseling and conciliation services that the 15765
division makes available to persons, whether or not the persons 15766
are parties to an action pending in the division, who request the 15767
services. 15768

(R) In Warren county, the judge of the court of common pleas, 15769
whose term begins January 1, 1987, and successors, shall have the 15770

same qualifications, exercise the same powers and jurisdiction, 15771
and receive the same compensation as the other judges of the court 15772
of common pleas of Warren county and shall be elected and 15773
designated as judge of the court of common pleas, division of 15774
domestic relations. The judge shall be assigned all divorce, 15775
dissolution of marriage, legal separation, and annulment cases 15776
coming before the court, except in cases that for some special 15777
reason are assigned to some other judge of the court of common 15778
pleas. The judge shall be charged with the assignment and division 15779
of the work of the division and with the employment and 15780
supervision of all other personnel of the domestic relations 15781
division. 15782

The judge also shall designate the title, compensation, 15783
expense allowances, hours, leaves of absence, and vacations of the 15784
personnel of the division and shall fix their duties. The duties 15785
of the personnel, in addition to other statutory duties, shall 15786
include the handling, servicing, and investigation of divorce, 15787
dissolution of marriage, legal separation, and annulment cases and 15788
providing any counseling and conciliation services that the 15789
division makes available to persons, whether or not the persons 15790
are parties to an action pending in the division, who request the 15791
services. 15792

(S) In Licking county, the judges of the court of common 15793
pleas, whose terms begin on January 1, 1991, and January 1, 2005, 15794
and successors, shall have the same qualifications, exercise the 15795
same powers and jurisdiction, and receive the same compensation as 15796
the other judges of the court of common pleas of Licking county 15797
and shall be elected and designated as judges of the court of 15798
common pleas, division of domestic relations. The judges shall be 15799
assigned all divorce, dissolution of marriage, legal separation, 15800
and annulment cases, all cases arising under Chapter 3111. of the 15801
Revised Code, all proceedings involving child support, the 15802

allocation of parental rights and responsibilities for the care of 15803
children and the designation for the children of a place of 15804
residence and legal custodian, parenting time, and visitation, and 15805
all post-decree proceedings and matters arising from those cases 15806
and proceedings, except in cases that for some special reason are 15807
assigned to another judge of the court of common pleas. The 15808
administrative judge of the division of domestic relations shall 15809
be charged with the assignment and division of the work of the 15810
division and with the employment and supervision of the personnel 15811
of the division. 15812

The administrative judge of the division of domestic 15813
relations shall designate the title, compensation, expense 15814
allowances, hours, leaves of absence, and vacations of the 15815
personnel of the division and shall fix the duties of the 15816
personnel of the division. The duties of the personnel of the 15817
division, in addition to other statutory duties, shall include the 15818
handling, servicing, and investigation of divorce, dissolution of 15819
marriage, legal separation, and annulment cases, cases arising 15820
under Chapter 3111. of the Revised Code, and proceedings involving 15821
child support, the allocation of parental rights and 15822
responsibilities for the care of children and the designation for 15823
the children of a place of residence and legal custodian, 15824
parenting time, and visitation and providing any counseling and 15825
conciliation services that the division makes available to 15826
persons, whether or not the persons are parties to an action 15827
pending in the division, who request the services. 15828

(T) In Allen county, the judge of the court of common pleas, 15829
whose term begins January 1, 1993, and successors, shall have the 15830
same qualifications, exercise the same powers and jurisdiction, 15831
and receive the same compensation as the other judges of the court 15832
of common pleas of Allen county and shall be elected and 15833
designated as judge of the court of common pleas, division of 15834

domestic relations. The judge shall be assigned all divorce, 15835
dissolution of marriage, legal separation, and annulment cases, 15836
all cases arising under Chapter 3111. of the Revised Code, all 15837
proceedings involving child support, the allocation of parental 15838
rights and responsibilities for the care of children and the 15839
designation for the children of a place of residence and legal 15840
custodian, parenting time, and visitation, and all post-decree 15841
proceedings and matters arising from those cases and proceedings, 15842
except in cases that for some special reason are assigned to 15843
another judge of the court of common pleas. The judge shall be 15844
charged with the assignment and division of the work of the 15845
division and with the employment and supervision of the personnel 15846
of the division. 15847

The judge shall designate the title, compensation, expense 15848
allowances, hours, leaves of absence, and vacations of the 15849
personnel of the division and shall fix the duties of the 15850
personnel of the division. The duties of the personnel of the 15851
division, in addition to other statutory duties, shall include the 15852
handling, servicing, and investigation of divorce, dissolution of 15853
marriage, legal separation, and annulment cases, cases arising 15854
under Chapter 3111. of the Revised Code, and proceedings involving 15855
child support, the allocation of parental rights and 15856
responsibilities for the care of children and the designation for 15857
the children of a place of residence and legal custodian, 15858
parenting time, and visitation, and providing any counseling and 15859
conciliation services that the division makes available to 15860
persons, whether or not the persons are parties to an action 15861
pending in the division, who request the services. 15862

(U) In Medina county, the judge of the court of common pleas 15863
whose term begins January 1, 1995, and successors, shall have the 15864
same qualifications, exercise the same powers and jurisdiction, 15865
and receive the same compensation as other judges of the court of 15866

common pleas of Medina county and shall be elected and designated 15867
as judge of the court of common pleas, division of domestic 15868
relations. The judge shall be assigned all divorce, dissolution of 15869
marriage, legal separation, and annulment cases, all cases arising 15870
under Chapter 3111. of the Revised Code, all proceedings involving 15871
child support, the allocation of parental rights and 15872
responsibilities for the care of children and the designation for 15873
the children of a place of residence and legal custodian, 15874
parenting time, and visitation, and all post-decree proceedings 15875
and matters arising from those cases and proceedings, except in 15876
cases that for some special reason are assigned to another judge 15877
of the court of common pleas. The judge shall be charged with the 15878
assignment and division of the work of the division and with the 15879
employment and supervision of the personnel of the division. 15880

The judge shall designate the title, compensation, expense 15881
allowances, hours, leaves of absence, and vacations of the 15882
personnel of the division and shall fix the duties of the 15883
personnel of the division. The duties of the personnel, in 15884
addition to other statutory duties, include the handling, 15885
servicing, and investigation of divorce, dissolution of marriage, 15886
legal separation, and annulment cases, cases arising under Chapter 15887
3111. of the Revised Code, and proceedings involving child 15888
support, the allocation of parental rights and responsibilities 15889
for the care of children and the designation for the children of a 15890
place of residence and legal custodian, parenting time, and 15891
visitation, and providing counseling and conciliation services 15892
that the division makes available to persons, whether or not the 15893
persons are parties to an action pending in the division, who 15894
request the services. 15895

(V) In Fairfield county, the judge of the court of common 15896
pleas whose term begins January 2, 1995, and successors, shall 15897
have the same qualifications, exercise the same powers and 15898

jurisdiction, and receive the same compensation as the other 15899
judges of the court of common pleas of Fairfield county and shall 15900
be elected and designated as judge of the court of common pleas, 15901
division of domestic relations. The judge shall be assigned all 15902
divorce, dissolution of marriage, legal separation, and annulment 15903
cases, all cases arising under Chapter 3111. of the Revised Code, 15904
all proceedings involving child support, the allocation of 15905
parental rights and responsibilities for the care of children and 15906
the designation for the children of a place of residence and legal 15907
custodian, parenting time, and visitation, and all post-decree 15908
proceedings and matters arising from those cases and proceedings, 15909
except in cases that for some special reason are assigned to 15910
another judge of the court of common pleas. The judge also has 15911
concurrent jurisdiction with the probate-juvenile division of the 15912
court of common pleas of Fairfield county with respect to and may 15913
hear cases to determine the custody of a child, as defined in 15914
section 2151.011 of the Revised Code, who is not the ward of 15915
another court of this state, cases that are commenced by a parent, 15916
guardian, or custodian of a child, as defined in section 2151.011 15917
of the Revised Code, to obtain an order requiring a parent of the 15918
child to pay child support for that child when the request for 15919
that order is not ancillary to an action for divorce, dissolution 15920
of marriage, annulment, or legal separation, a criminal or civil 15921
action involving an allegation of domestic violence, an action for 15922
support under Chapter 3115. of the Revised Code, or an action that 15923
is within the exclusive original jurisdiction of the 15924
probate-juvenile division of the court of common pleas of 15925
Fairfield county and that involves an allegation that the child is 15926
an abused, neglected, or dependent child, and post-decree 15927
proceedings and matters arising from those types of cases. 15928

The judge of the domestic relations division shall be charged 15929
with the assignment and division of the work of the division and 15930
with the employment and supervision of the personnel of the 15931

division. 15932

The judge shall designate the title, compensation, expense 15933
allowances, hours, leaves of absence, and vacations of the 15934
personnel of the division and shall fix the duties of the 15935
personnel of the division. The duties of the personnel of the 15936
division, in addition to other statutory duties, shall include the 15937
handling, servicing, and investigation of divorce, dissolution of 15938
marriage, legal separation, and annulment cases, cases arising 15939
under Chapter 3111. of the Revised Code, and proceedings involving 15940
child support, the allocation of parental rights and 15941
responsibilities for the care of children and the designation for 15942
the children of a place of residence and legal custodian, 15943
parenting time, and visitation, and providing any counseling and 15944
conciliation services that the division makes available to 15945
persons, regardless of whether the persons are parties to an 15946
action pending in the division, who request the services. When the 15947
judge hears a case to determine the custody of a child, as defined 15948
in section 2151.011 of the Revised Code, who is not the ward of 15949
another court of this state or a case that is commenced by a 15950
parent, guardian, or custodian of a child, as defined in section 15951
2151.011 of the Revised Code, to obtain an order requiring a 15952
parent of the child to pay child support for that child when the 15953
request for that order is not ancillary to an action for divorce, 15954
dissolution of marriage, annulment, or legal separation, a 15955
criminal or civil action involving an allegation of domestic 15956
violence, an action for support under Chapter 3115. of the Revised 15957
Code, or an action that is within the exclusive original 15958
jurisdiction of the probate-juvenile division of the court of 15959
common pleas of Fairfield county and that involves an allegation 15960
that the child is an abused, neglected, or dependent child, the 15961
duties of the personnel of the domestic relations division also 15962
include the handling, servicing, and investigation of those types 15963
of cases. 15964

(W)(1) In Clark county, the judge of the court of common pleas whose term begins on January 2, 1995, and successors, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as other judges of the court of common pleas of Clark county and shall be elected and designated as judge of the court of common pleas, domestic relations division. The judge shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code and all parentage proceedings under Chapter 3111. of the Revised Code over which the juvenile court has jurisdiction shall be assigned to the judge of the division of domestic relations. All divorce, dissolution of marriage, legal separation, annulment, uniform reciprocal support enforcement, and other cases related to domestic relations shall be assigned to the domestic relations division, and the presiding judge of the court of common pleas shall assign the cases to the judge of the domestic relations division and the judges of the general division.

(2) In addition to the judge's regular duties, the judge of the division of domestic relations shall serve on the children services board and the county advisory board.

(3) If the judge of the court of common pleas of Clark county, division of domestic relations, is sick, absent, or unable to perform that judge's judicial duties or if the presiding judge of the court of common pleas of Clark county determines that the volume of cases pending in the division of domestic relations necessitates it, the duties of the judge of the division of domestic relations shall be performed by the judges of the general division or probate division of the court of common pleas of Clark county, as assigned for that purpose by the presiding judge of that court, and the judges so assigned shall act in conjunction with the judge of the division of domestic relations of that

court. 15997

(X) In Scioto county, the judge of the court of common pleas 15998
whose term begins January 2, 1995, and successors, shall have the 15999
same qualifications, exercise the same powers and jurisdiction, 16000
and receive the same compensation as other judges of the court of 16001
common pleas of Scioto county and shall be elected and designated 16002
as judge of the court of common pleas, division of domestic 16003
relations. The judge shall be assigned all divorce, dissolution of 16004
marriage, legal separation, and annulment cases, all cases arising 16005
under Chapter 3111. of the Revised Code, all proceedings involving 16006
child support, the allocation of parental rights and 16007
responsibilities for the care of children and the designation for 16008
the children of a place of residence and legal custodian, 16009
parenting time, visitation, and all post-decree proceedings and 16010
matters arising from those cases and proceedings, except in cases 16011
that for some special reason are assigned to another judge of the 16012
court of common pleas. The judge shall be charged with the 16013
assignment and division of the work of the division and with the 16014
employment and supervision of the personnel of the division. 16015

The judge shall designate the title, compensation, expense 16016
allowances, hours, leaves of absence, and vacations of the 16017
personnel of the division and shall fix the duties of the 16018
personnel of the division. The duties of the personnel, in 16019
addition to other statutory duties, include the handling, 16020
servicing, and investigation of divorce, dissolution of marriage, 16021
legal separation, and annulment cases, cases arising under Chapter 16022
3111. of the Revised Code, and proceedings involving child 16023
support, the allocation of parental rights and responsibilities 16024
for the care of children and the designation for the children of a 16025
place of residence and legal custodian, parenting time, and 16026
visitation, and providing counseling and conciliation services 16027
that the division makes available to persons, whether or not the 16028

persons are parties to an action pending in the division, who 16029
request the services. 16030

(Y) In Auglaize county, the judge of the probate and juvenile 16031
divisions of the Auglaize county court of common pleas also shall 16032
be the administrative judge of the domestic relations division of 16033
the court and shall be assigned all divorce, dissolution of 16034
marriage, legal separation, and annulment cases coming before the 16035
court. The judge shall have all powers as administrator of the 16036
domestic relations division and shall have charge of the personnel 16037
engaged in handling, servicing, or investigating divorce, 16038
dissolution of marriage, legal separation, and annulment cases, 16039
including any referees considered necessary for the discharge of 16040
the judge's various duties. 16041

(Z)(1) In Marion county, the judge of the court of common 16042
pleas whose term begins on February 9, 1999, and the successors to 16043
that judge, shall have the same qualifications, exercise the same 16044
powers and jurisdiction, and receive the same compensation as the 16045
other judges of the court of common pleas of Marion county and 16046
shall be elected and designated as judge of the court of common 16047
pleas, domestic relations-juvenile-probate division. Except as 16048
otherwise specified in this division, that judge, and the 16049
successors to that judge, shall have all the powers relating to 16050
juvenile courts, and all cases under Chapters 2151. and 2152. of 16051
the Revised Code, all cases arising under Chapter 3111. of the 16052
Revised Code, all divorce, dissolution of marriage, legal 16053
separation, and annulment cases, all proceedings involving child 16054
support, the allocation of parental rights and responsibilities 16055
for the care of children and the designation for the children of a 16056
place of residence and legal custodian, parenting time, and 16057
visitation, and all post-decree proceedings and matters arising 16058
from those cases and proceedings shall be assigned to that judge 16059
and the successors to that judge. Except as provided in division 16060

(Z)(2) of this section and notwithstanding any other provision of 16061
any section of the Revised Code, on and after February 9, 2003, 16062
the judge of the court of common pleas of Marion county whose term 16063
begins on February 9, 1999, and the successors to that judge, 16064
shall have all the powers relating to the probate division of the 16065
court of common pleas of Marion county in addition to the powers 16066
previously specified in this division, and shall exercise 16067
concurrent jurisdiction with the judge of the probate division of 16068
that court over all matters that are within the jurisdiction of 16069
the probate division of that court under Chapter 2101., and other 16070
provisions, of the Revised Code in addition to the jurisdiction of 16071
the domestic relations-juvenile-probate division of that court 16072
otherwise specified in division (Z)(1) of this section. 16073

(2) The judge of the domestic relations-juvenile-probate 16074
division of the court of common pleas of Marion county or the 16075
judge of the probate division of the court of common pleas of 16076
Marion county, whichever of those judges is senior in total length 16077
of service on the court of common pleas of Marion county, 16078
regardless of the division or divisions of service, shall serve as 16079
the clerk of the probate division of the court of common pleas of 16080
Marion county. 16081

(3) On and after February 9, 2003, all references in law to 16082
"the probate court," "the probate judge," "the juvenile court," or 16083
"the judge of the juvenile court" shall be construed, with respect 16084
to Marion county, as being references to both "the probate 16085
division" and "the domestic relations-juvenile-probate division" 16086
and as being references to both "the judge of the probate 16087
division" and "the judge of the domestic relations- 16088
juvenile-probate division." On and after February 9, 2003, all 16089
references in law to "the clerk of the probate court" shall be 16090
construed, with respect to Marion county, as being references to 16091
the judge who is serving pursuant to division (Z)(2) of this 16092

section as the clerk of the probate division of the court of 16093
common pleas of Marion county. 16094

(AA) In Muskingum county, the judge of the court of common 16095
pleas whose term begins on January 2, 2003, and successors, shall 16096
have the same qualifications, exercise the same powers and 16097
jurisdiction, and receive the same compensation as the other 16098
judges of the court of common pleas of Muskingum county and shall 16099
be elected and designated as the judge of the court of common 16100
pleas, division of domestic relations. The judge shall be assigned 16101
all divorce, dissolution of marriage, legal separation, and 16102
annulment cases, all cases arising under Chapter 3111. of the 16103
Revised Code, all proceedings involving child support, the 16104
allocation of parental rights and responsibilities for the care of 16105
children and the designation for the children of a place of 16106
residence and legal custodian, parenting time, and visitation, and 16107
all post-decree proceedings and matters arising from those cases 16108
and proceedings, except in cases that for some special reason are 16109
assigned to another judge of the court of common pleas. The judge 16110
shall be charged with the assignment and division of the work of 16111
the division and with the employment and supervision of the 16112
personnel of the division. 16113

The judge shall designate the title, compensation, expense 16114
allowances, hours, leaves of absence, and vacations of the 16115
personnel of the division and shall fix the duties of the 16116
personnel of the division. The duties of the personnel of the 16117
division, in addition to other statutory duties, shall include the 16118
handling, servicing, and investigation of divorce, dissolution of 16119
marriage, legal separation, and annulment cases, cases arising 16120
under Chapter 3111. of the Revised Code, and proceedings involving 16121
child support, the allocation of parental rights and 16122
responsibilities for the care of children and the designation for 16123
the children of a place of residence and legal custodian, 16124

parenting time, and visitation and providing any counseling and 16125
conciliation services that the division makes available to 16126
persons, whether or not the persons are parties to an action 16127
pending in the division, who request the services. 16128

(BB) In Henry county, the judge of the court of common pleas 16129
whose term begins on January 1, 2005, and successors, shall have 16130
the same qualifications, exercise the same powers and 16131
jurisdiction, and receive the same compensation as the other judge 16132
of the court of common pleas of Henry county and shall be elected 16133
and designated as the judge of the court of common pleas, division 16134
of domestic relations. The judge shall have all of the powers 16135
relating to juvenile courts, and all cases under Chapter 2151. or 16136
2152. of the Revised Code, all parentage proceedings arising under 16137
Chapter 3111. of the Revised Code over which the juvenile court 16138
has jurisdiction, all divorce, dissolution of marriage, legal 16139
separation, and annulment cases, all proceedings involving child 16140
support, the allocation of parental rights and responsibilities 16141
for the care of children and the designation for the children of a 16142
place of residence and legal custodian, parenting time, and 16143
visitation, and all post-decree proceedings and matters arising 16144
from those cases and proceedings shall be assigned to that judge, 16145
except in cases that for some special reason are assigned to the 16146
other judge of the court of common pleas. 16147

(CC)(1) In Logan county, the judge of the court of common 16148
pleas whose term begins January 2, 2005, and the successors to 16149
that judge, shall have the same qualifications, exercise the same 16150
powers and jurisdiction, and receive the same compensation as the 16151
other judges of the court of common pleas of Logan county and 16152
shall be elected and designated as judge of the court of common 16153
pleas, domestic relations-juvenile-probate division. Except as 16154
otherwise specified in this division, that judge, and the 16155
successors to that judge, shall have all the powers relating to 16156

juvenile courts, and all cases under Chapters 2151. and 2152. of 16157
the Revised Code, all cases arising under Chapter 3111. of the 16158
Revised Code, all divorce, dissolution of marriage, legal 16159
separation, and annulment cases, all proceedings involving child 16160
support, the allocation of parental rights and responsibilities 16161
for the care of children and designation for the children of a 16162
place of residence and legal custodian, parenting time, and 16163
visitation, and all post-decree proceedings and matters arising 16164
from those cases and proceedings shall be assigned to that judge 16165
and the successors to that judge. Notwithstanding any other 16166
provision of any section of the Revised Code, on and after January 16167
2, 2005, the judge of the court of common pleas of Logan county 16168
whose term begins on January 2, 2005, and the successors to that 16169
judge, shall have all the powers relating to the probate division 16170
of the court of common pleas of Logan county in addition to the 16171
powers previously specified in this division and shall exercise 16172
concurrent jurisdiction with the judge of the probate division of 16173
that court over all matters that are within the jurisdiction of 16174
the probate division of that court under Chapter 2101., and other 16175
provisions, of the Revised Code in addition to the jurisdiction of 16176
the domestic relations-juvenile-probate division of that court 16177
otherwise specified in division (CC)(1) of this section. 16178

(2) The judge of the domestic relations-juvenile-probate 16179
division of the court of common pleas of Logan county or the 16180
probate judge of the court of common pleas of Logan county who is 16181
elected as the administrative judge of the probate division of the 16182
court of common pleas of Logan county pursuant to Rule 4 of the 16183
Rules of Superintendence shall be the clerk of the probate 16184
division and juvenile division of the court of common pleas of 16185
Logan county. The clerk of the court of common pleas who is 16186
elected pursuant to section 2303.01 of the Revised Code shall keep 16187
all of the journals, records, books, papers, and files pertaining 16188
to the domestic relations cases. 16189

(3) On and after January 2, 2005, all references in law to "the probate court," "the probate judge," "the juvenile court," or "the judge of the juvenile court" shall be construed, with respect to Logan county, as being references to both "the probate division" and the "domestic relations-juvenile-probate division" and as being references to both "the judge of the probate division" and the "judge of the domestic relations-juvenile-probate division." On and after January 2, 2005, all references in law to "the clerk of the probate court" shall be construed, with respect to Logan county, as being references to the judge who is serving pursuant to division (CC)(2) of this section as the clerk of the probate division of the court of common pleas of Logan county.

(DD)(1) In Champaign county, the judge of the court of common pleas whose term begins February 9, 2003, and the judge of the court of common pleas whose term begins February 10, 2009, and the successors to those judges, shall have the same qualifications, exercise the same powers and jurisdiction, and receive the same compensation as the other judges of the court of common pleas of Champaign county and shall be elected and designated as judges of the court of common pleas, domestic relations-juvenile-probate division. Except as otherwise specified in this division, those judges, and the successors to those judges, shall have all the powers relating to juvenile courts, and all cases under Chapters 2151. and 2152. of the Revised Code, all cases arising under Chapter 3111. of the Revised Code, all divorce, dissolution of marriage, legal separation, and annulment cases, all proceedings involving child support, the allocation of parental rights and responsibilities for the care of children and the designation for the children of a place of residence and legal custodian, parenting time, and visitation, and all post-decree proceedings and matters arising from those cases and proceedings shall be assigned to those judges and the successors to those judges.

Notwithstanding any other provision of any section of the Revised Code, on and after February 9, 2009, the judges designated by this division as judges of the court of common pleas of Champaign county, domestic relations-juvenile-probate division, and the successors to those judges, shall have all the powers relating to probate courts in addition to the powers previously specified in this division and shall exercise jurisdiction over all matters that are within the jurisdiction of probate courts under Chapter 2101., and other provisions, of the Revised Code in addition to the jurisdiction of the domestic relations-juvenile-probate division otherwise specified in division (DD)(1) of this section.

(2) On and after February 9, 2009, all references in law to "the probate court," "the probate judge," "the juvenile court," or "the judge of the juvenile court" shall be construed with respect to Champaign county as being references to the "domestic relations-juvenile-probate division" and as being references to the "judge of the domestic relations-juvenile-probate division." On and after February 9, 2009, all references in law to "the clerk of the probate court" shall be construed with respect to Champaign county as being references to the judge who is serving pursuant to Rule 4 of the Rules of Superintendence for the Courts of Ohio as the administrative judge of the court of common pleas, domestic relations-juvenile-probate division.

(EE) If a judge of the court of common pleas, division of domestic relations, or juvenile judge, of any of the counties mentioned in this section is sick, absent, or unable to perform that judge's judicial duties or the volume of cases pending in the judge's division necessitates it, the duties of that judge shall be performed by another judge of the court of common pleas of that county, assigned for that purpose by the presiding judge of the court of common pleas of that county to act in place of or in conjunction with that judge, as the case may require.

Sec. 2301.18. The court of common pleas shall appoint a 16255
~~steno~~graphic reporter as the official ~~shorthand~~ reporter of ~~such~~ 16256
the court, ~~who shall hold the appointment~~ for a term not exceeding 16257
three years ~~from the date thereof~~, unless removed by the court, 16258
after a good cause shown, for neglect of duty, misconduct in 16259
office, or incompetency. ~~Such~~ The court may appoint assistant 16260
reporters as the business of the court requires for terms not 16261
exceeding three years under one appointment. The official 16262
~~shorthand~~ reporter and assistant reporters shall take an oath 16263
faithfully and impartially to discharge the duties of ~~such~~ 16264
~~position~~ their positions. 16265

Sec. 2301.20. ~~Upon the trial of a~~ All civil ~~or~~ and criminal 16266
~~action~~ actions in the court of common pleas, ~~if either party to~~ 16267
~~the action or his attorney requests the services of a shorthand~~ 16268
~~reporter, the trial judge shall grant the request, or may order a~~ 16269
~~full report of the testimony or other proceedings. In either case,~~ 16270
~~the shorthand shall be recorded.~~ The reporter shall take accurate 16271
~~shorthand~~ notes of or electronically record the oral testimony ~~or~~ 16272
~~other oral proceedings.~~ The notes and electronic records shall be 16273
filed in the office of the official ~~shorthand~~ reporter and 16274
carefully preserved for either of the following periods of time: 16275

(A) If the action is not a capital case, the notes and 16276
electronic records shall be preserved for the period of time 16277
specified by the court of common pleas, which period of time shall 16278
not be longer than the period of time that the other records of 16279
the particular action are required to be kept. 16280

(B) If the action is a capital case, the notes and electronic 16281
records shall be preserved for the longer of ten years or until 16282
the final disposition of the action and exhaustion of all appeals. 16283

Sec. 2301.21. In every case ~~reported~~ recorded as provided in 16284

section 2301.20 of the Revised Code, there shall be taxed for each 16285
day's service of the official or assistant ~~shorthand~~ reporters a 16286
fee of twenty-five dollars, to be collected as other costs in the 16287
case. The fees so collected shall be paid quarterly by the clerk 16288
of the court of common pleas in which the cases were tried into 16289
the treasury of the county and shall be credited by the county 16290
treasurer to the general fund. 16291

Sec. 2301.22. Each ~~shorthand~~ reporter shall receive ~~such the~~ 16292
compensation ~~as that~~ the court of common pleas making the 16293
appointment fixes. ~~Such That~~ compensation shall be in place of all 16294
per diem compensation in ~~such those~~ courts. In case ~~such the~~ 16295
appointment is for a term of less than one year, ~~such the~~ court 16296
may allow a per diem compensation to be fixed by the court, plus 16297
actual and necessary expenses incurred, for each day ~~such~~ 16298
~~shorthand the~~ reporter is actually engaged in taking testimony or 16299
performing other duties under the orders of ~~such the~~ court, which 16300
allowance shall be in full payment for all services so rendered. 16301

The county auditor shall issue warrants on the county 16302
treasurer for the payment of ~~such the~~ compensation under this 16303
section in equal monthly installments, ~~when if~~ the compensation is 16304
allowed annually, and ~~when~~ in case of services per diem, for the 16305
amount of the bill approved by the court, from the general fund 16306
upon the presentation of a certified copy of the journal entry of 16307
appointment and compensation of ~~such shorthand the~~ reporters. 16308

Sec. 2301.23. When ~~shorthand~~ notes have been taken or an 16309
electronic recording has been made in a case as provided in 16310
section 2301.20 of the Revised Code, if the court, or either party 16311
to the suit ~~or his attorney,~~ requests written transcripts of any 16312
portion of ~~such notes in longhand the proceeding,~~ the ~~shorthand~~ 16313
reporter reporting the case shall make full and accurate 16314
transcripts of the notes ~~for the use of such court or party or~~ 16315

electronic recording. The court may direct the official ~~shorthand~~ 16316
reporter to furnish to the court and the parties copies of 16317
decisions rendered and charges delivered by the court in pending 16318
cases. 16319

When the compensation for transcripts, copies of decisions, 16320
or charges is taxed as a part of the costs, ~~such the~~ transcripts, 16321
copies of decisions, and charges shall remain on file with the 16322
papers of the case. 16323

Sec. 2301.24. The compensation of ~~shorthand~~ reporters for 16324
making written transcripts ~~and copies~~ as provided in section 16325
2301.23 of the Revised Code shall be fixed by ~~the judges of the~~ 16326
court of common pleas of the county ~~wherein~~ in which the trial is 16327
~~had held~~. Such If more than one transcript of the same testimony 16328
or proceeding is ordered, the reporter shall make copies of the 16329
transcript at cost pursuant to division (B)(1) of section 149.43 16330
of the Revised Code or shall provide an electronic copy of the 16331
transcript free of charge. The compensation shall be paid 16332
~~forthwith~~ by the party for whose benefit a transcript is made. The 16333
compensation for transcripts ~~of testimony~~ requested by the 16334
prosecuting attorney ~~during trial~~ or an indigent defendant in 16335
criminal cases or by the trial judge, in either civil or criminal 16336
cases, and for copies of decisions and charges furnished by 16337
direction of the court shall be paid from the county treasury, and 16338
taxed and collected as costs. 16339

Sec. 2301.25. When ordered by the prosecuting attorney or the 16340
defendant in a criminal ~~trial,~~ case or when ordered by a judge of 16341
the court of common pleas ~~for his use,~~ in either civil or criminal 16342
cases, the costs of transcripts ~~mentioned in section 2301.23 of~~ 16343
~~the Revised Code,~~ shall be taxed as costs in the case, collected 16344
as other costs, whether ~~such the~~ transcripts have been prepaid or 16345
not, as provided by section 2301.24 of the Revised Code, ~~and~~ paid 16346

by the clerk of the court of common pleas, quarterly, into the county treasury, and credited to the general fund. If, upon final judgment, the costs or any part thereof shall be of the costs are adjudged against a defendant in a criminal case, ~~he~~ the defendant shall be allowed credit on the cost bill of the amount paid ~~by him~~ for the transcript ~~he~~ the defendant ordered and, if the costs are finally adjudged against the state, the defendant shall have ~~his~~ the defendant's deposit refunded. ~~When more than one transcript of the same testimony or proceedings is ordered at the same time by the same party, or by the court, the compensation for making such additional transcript shall be one half the compensation allowed for the first copy, and shall be paid for in the same manner except that where ordered by the same party only the cost of the original shall be taxed as costs. All such transcripts shall be taken and received as prima-facie evidence of their correctness. When~~ If the testimony of witnesses is taken before the grand jury by ~~shorthand~~ reporters, they shall receive for ~~such~~ the transcripts ~~as are ordered by the prosecuting attorney~~ the same compensation ~~per folio~~ and be paid ~~therefor~~ in the same manner as provided in this section and section 2301.24 of the Revised Code.

Sec. 2301.26. ~~Shorthand reporters~~ Reporters appointed under ~~sections~~ section 2301.18 ~~and 2301.19~~ of the Revised Code, may be appointed referees to take and report evidence in causes pending in any of the courts of this state. In the taking of evidence as ~~such~~ referees, ~~they~~ the reporters may administer oaths to witnesses. They shall be furnished by the board of county commissioners with a suitable room in the courthouse, and with ~~stationery,~~ supplies and ~~other~~ equipment necessary ~~in~~ for the proper discharge of their duties and for the preservation of their ~~stenographic notes~~ and electronic records. ~~Such~~ The notes ~~and~~ electronic records shall be the property of the county and

carefully preserved in the office of the ~~shorthand~~ reporters. 16379

Sec. 2301.27. (A)(1)(a) The court of common pleas may 16380
establish a county department of probation. The establishment of 16381
the department shall be entered upon the journal of the court, and 16382
the clerk of the court of common pleas shall certify a copy of the 16383
journal entry establishing the department to each elective officer 16384
and board of the county. The department shall consist of a chief 16385
probation officer and the number of other probation officers and 16386
employees, clerks, and stenographers that is fixed from time to 16387
time by the court. The court shall appoint those individuals, fix 16388
their salaries, and supervise their work. 16389

(b) When appointing a chief probation officer, the court 16390
shall do all of the following: 16391

(i) Publicly advertise the position on the court's web site, 16392
including, but not limited to, the job description, qualifications 16393
for the position, and the application requirements; 16394

(ii) Conduct a competitive hiring process that adheres to 16395
state and federal equal employment opportunity laws; 16396

(iii) Review applicants who meet the posted qualifications 16397
and comply with the application requirements. 16398

(c) The court shall not appoint as a probation officer any 16399
person who does not possess the training, experience, and other 16400
qualifications prescribed by the adult parole authority created by 16401
section 5149.02 of the Revised Code. Probation officers have all 16402
the powers of regular police officers and shall perform any duties 16403
that are designated by the judge or judges of the court. All 16404
positions within the department of probation shall be in the 16405
classified service of the civil service of the county. 16406

(2) If two or more counties desire to jointly establish a 16407
probation department for those counties, the judges of the courts 16408

of common pleas of those counties may establish a probation 16409
department for those counties. If a probation department is 16410
established pursuant to division (A)(2) of this section to serve 16411
more than one county, the judges of the courts of common pleas 16412
that established the department shall designate the county 16413
treasurer of one of the counties served by the department as the 16414
treasurer to whom probation fees paid under section 2951.021 of 16415
the Revised Code are to be appropriated and transferred under 16416
division (A)(2) of section 321.44 of the Revised Code for deposit 16417
into the multicounty probation services fund established under 16418
division (B) of section 321.44 of the Revised Code. 16419

The cost of the administration and operation of a probation 16420
department established for two or more counties shall be prorated 16421
to the respective counties on the basis of population. 16422

(3) Probation officers shall receive, in addition to their 16423
respective salaries, their necessary and reasonable travel and 16424
other expenses incurred in the performance of their duties. Their 16425
salaries and expenses shall be paid monthly from the county 16426
treasury in the manner provided for the payment of the 16427
compensation of other appointees of the court. 16428

(4) ~~Probation~~ Adult probation officers shall be trained in 16429
accordance with a set of minimum standards that are established by 16430
the adult parole authority of the department of rehabilitation and 16431
correction. 16432

(B)(1) In lieu of establishing a county department of 16433
probation under division (A) of this section and in lieu of 16434
entering into an agreement with the adult parole authority as 16435
described in division (B) of section 2301.32 of the Revised Code, 16436
the court of common pleas may request the board of county 16437
commissioners to contract with, and upon that request the board 16438
may contract with, any nonprofit, public or private agency, 16439
association, or organization for the provision of probation 16440

services and supervisory services for persons placed under 16441
community control sanctions. The contract shall specify that each 16442
individual providing the probation services and supervisory 16443
services shall possess the training, experience, and other 16444
qualifications prescribed by the adult parole authority. The 16445
individuals who provide the probation services and supervisory 16446
services shall not be included in the classified or unclassified 16447
civil service of the county. 16448

(2) In lieu of establishing a county department of probation 16449
under division (A) of this section and in lieu of entering into an 16450
agreement with the adult parole authority as described in division 16451
(B) of section 2301.32 of the Revised Code, the courts of common 16452
pleas of two or more adjoining counties jointly may request the 16453
boards of county commissioners of those counties to contract with, 16454
and upon that request the boards of county commissioners of two or 16455
more adjoining counties jointly may contract with, any nonprofit, 16456
public or private agency, association, or organization for the 16457
provision of probation services and supervisory services for 16458
persons placed under community control sanctions for those 16459
counties. The contract shall specify that each individual 16460
providing the probation services and supervisory services shall 16461
possess the training, experience, and other qualifications 16462
prescribed by the adult parole authority. The individuals who 16463
provide the probation services and supervisory services shall not 16464
be included in the classified or unclassified civil service of any 16465
of those counties. 16466

(C) The chief probation officer may grant permission to a 16467
probation officer to carry firearms when required in the discharge 16468
of official duties if the probation officer has successfully 16469
completed a basic firearm training program that is approved by the 16470
executive director of the Ohio peace officer training commission. 16471
A probation officer who has been granted permission to carry a 16472

firearm in the discharge of official duties, annually shall 16473
successfully complete a firearms requalification program in 16474
accordance with section 109.801 of the Revised Code. 16475

(D) As used in this section and sections 2301.28 to 2301.32 16476
of the Revised Code, "community control sanction" has the same 16477
meaning as in section 2929.01 of the Revised Code. 16478

Sec. 2301.271. (A) The adult parole authority of the 16479
department of rehabilitation and correction shall develop minimum 16480
standards for the training of adult probation officers as provided 16481
by section 2301.27 of the Revised Code. The adult parole authority 16482
shall consult and collaborate with the supreme court in developing 16483
the standards. 16484

(B) Within six months after ~~the effective date of this~~ 16485
~~section~~ September 30, 2011, the department of rehabilitation and 16486
correction shall make available a copy of the minimum standards to 16487
the following entities: 16488

(1) Every municipal court, county court, and court of common 16489
pleas; 16490

(2) Every probation department. 16491

Sec. 2301.571. (A) A person who has been convicted of or 16492
pleaded guilty to an offense and who is confined in a 16493
community-based correctional facility or district community-based 16494
correctional facility, ~~unless indigent~~, is financially responsible 16495
for the payment of any medical expense or service requested by and 16496
provided to that person. 16497

(B) ~~Notwithstanding any contrary provision of section 2929.38~~ 16498
~~of the Revised Code, the facility governing board of a~~ 16499
~~community based correctional facility or district community based~~ 16500
~~correctional facility shall establish a policy that requires any~~ 16501
~~person who is not indigent and who is confined in the correctional~~ 16502

~~facility to pay for any medical treatment or service requested by~~ 16503
~~and provided to that person. The fee for the medical treatment or~~ 16504
~~service shall not exceed the actual cost of the treatment or~~ 16505
~~service provided.~~ No person confined in a community-based 16506
correctional facility or district community-based correctional 16507
facility shall be denied any necessary medical care because of 16508
inability to pay for medical treatment or service. 16509

(C) ~~Any fee paid by a person under~~ Nothing in this section 16510
~~shall be deducted from~~ cause a community-based correctional 16511
facility or district community-based correctional facility to be 16512
responsible for the payment of any medical or ~~dental costs that~~ 16513
~~the person is ordered to reimburse under a financial sanction~~ 16514
~~imposed pursuant to section 2929.28 of the Revised Code or to~~ 16515
~~repay under a policy adopted under~~ other health care expenses 16516
incurred in connection with an offender who is serving a term in 16517
the facility pursuant to section 2929.37 2929.16 of the Revised 16518
Code. 16519

Sec. 2305.01. Except as otherwise provided by this section or 16520
section 2305.03 of the Revised Code, the court of common pleas has 16521
original jurisdiction in all civil cases in which the sum or 16522
matter in dispute exceeds the exclusive original jurisdiction of 16523
county courts and appellate jurisdiction from the decisions of 16524
boards of county commissioners. The court of common pleas shall 16525
not have jurisdiction, in any tort action to which the amounts 16526
apply, to award punitive or exemplary damages that exceed the 16527
amounts set forth in section 2315.21 of the Revised Code. The 16528
court of common pleas shall not have jurisdiction in any tort 16529
action to which the limits apply to enter judgment on an award of 16530
compensatory damages for noneconomic loss in excess of the limits 16531
set forth in section 2315.18 of the Revised Code. 16532

The court of common pleas may on its own motion transfer for 16533

trial any action in the court to any municipal court in the county 16534
having concurrent jurisdiction of the subject matter of, and the 16535
parties to, the action, if the amount sought by the plaintiff does 16536
not exceed one thousand dollars and if the judge or presiding 16537
judge of the municipal court concurs in the proposed transfer. 16538
Upon the issuance of an order of transfer, the clerk of courts 16539
shall remove to the designated municipal court the entire case 16540
file. Any untaxed portion of the common pleas deposit for court 16541
costs shall be remitted to the municipal court by the clerk of 16542
courts to be applied in accordance with section 1901.26 of the 16543
Revised Code, and the costs taxed by the municipal court shall be 16544
added to any costs taxed in the common pleas court. 16545

The court of common pleas has jurisdiction in any action 16546
brought pursuant to division (I) of section ~~3733.11~~ 4781.40 of the 16547
Revised Code if the residential premises that are the subject of 16548
the action are located within the territorial jurisdiction of the 16549
court. 16550

The courts of common pleas of Adams, Athens, Belmont, Brown, 16551
Clermont, Columbiana, Gallia, Hamilton, Jefferson, Lawrence, 16552
Meigs, Monroe, Scioto, and Washington counties have jurisdiction 16553
beyond the north or northwest shore of the Ohio river extending to 16554
the opposite shore line, between the extended boundary lines of 16555
any adjacent counties or adjacent state. Each of those courts of 16556
common pleas has concurrent jurisdiction on the Ohio river with 16557
any adjacent court of common pleas that borders on that river and 16558
with any court of Kentucky or of West Virginia that borders on the 16559
Ohio river and that has jurisdiction on the Ohio river under the 16560
law of Kentucky or the law of West Virginia, whichever is 16561
applicable, or under federal law. 16562

Sec. 2305.02. A The court of common pleas associated with the 16563
individual's conviction has exclusive, original jurisdiction to 16564

hear and determine an action or proceeding that is commenced by an individual who satisfies divisions (A)(1) to (4) of section 2743.48 of the Revised Code and ~~that~~ seeks a determination by ~~the~~ that court that the offense of which ~~he~~ the individual was found guilty, including all lesser-included offenses, either was not committed by ~~him~~ the individual or was not committed by any person. If ~~the~~ that court enters the requested determination, it shall comply with division (B) of that section.

Sec. 2307.89. The following apply to all tort actions for silicosis or mixed dust disease claims brought against a premises owner to recover damages or other relief for exposure to silica or mixed dust on the premises owner's property:

(A) A premises owner is not liable for any injury to any individual resulting from silica or mixed dust exposure unless that individual's alleged exposure occurred while the individual was at the premises owner's property.

(B) If exposure to silica or mixed dust is alleged to have occurred before January 1, 1972, it is presumed that a premises owner knew that this state had adopted safe levels of exposure for silica or mixed dust and that products containing silica or mixed dust were used on its property only at levels below those safe levels of exposure. To rebut this presumption, the plaintiff must prove by a preponderance of the evidence that the premises owner knew or should have known that the levels of silica or mixed dust in the immediate breathing zone of the plaintiff regularly exceeded the threshold limit values adopted by this state and that the premises owner allowed that condition to persist.

(C)(1) A premises owner is presumed to be not liable for any injury to any invitee who was engaged to work with, install, or remove products containing silica or mixed dust on the premises owner's property if the invitee's employer held itself out as

qualified to perform the work. To rebut this presumption, the plaintiff must demonstrate by a preponderance of the evidence that the premises owner had actual knowledge of the potential dangers of the products containing silica or mixed dust at the time of the alleged exposure that was superior to the knowledge of both the invitee and the invitee's employer.

(2) A premises owner that hired a contractor before January 1, 1972, to perform the type of work at the premises owner's property that the contractor was qualified to perform cannot be liable for any injury to any individual resulting from silica or mixed dust exposure caused by any of the contractor's employees or agents on the premises owner's property unless the premises owner directed the activity that resulted in the injury or gave or denied permission for the critical acts that led to the individual's injury.

(3) If exposure to silica or mixed dust is alleged to have occurred after January 1, 1972, a premises owner is not liable for any injury to any individual resulting from that exposure caused by a contractor's employee or agent on the premises owner's property unless the plaintiff establishes the premises owner's intentional violation of an established safety standard that was in effect at the time of the exposure and that the alleged violation was in the plaintiff's breathing zone and was the proximate cause of the plaintiff's medical condition.

(D) As used in this section:

(1) "Threshold limit values" means the maximum allowable concentration of silica, or other dust, set forth in regulation 247 of the "regulations for the prevention and control of diseases resulting from exposure to toxic fumes, vapors, mists, gases, and dusts in order to preserve and protect the public health," as adopted by the former public health council of the department of health on January 1, 1947, and set forth by the industrial

commission of Ohio in bulletin no. 203, "specific requirements and 16628
general safety standards of the industrial commission of Ohio for 16629
work shops and factories, chapter XV, ventilation and exhausts," 16630
effective January 3, 1955. 16631

(2) "Established safety standard" means that, for the years 16632
after 1971, the concentration of silica or mixed dust in the 16633
breathing zone of the worker does not exceed the maximum allowable 16634
exposure limits for the eight-hour time-weighted average airborne 16635
concentration as promulgated by the occupational safety and health 16636
administration (OSHA) in effect at the time of the alleged 16637
exposure. 16638

(3) "Employee" means an individual who performs labor or 16639
provides construction services pursuant to a construction 16640
contract, as defined in section 4123.79 of the Revised Code, or a 16641
remodeling or repair contract, whether written or oral, if at 16642
least ten of the following criteria apply: 16643

(a) The individual is required to comply with instructions 16644
from the other contracting party regarding the manner or method of 16645
performing services. 16646

(b) The individual is required by the other contracting party 16647
to have particular training. 16648

(c) The individual's services are integrated into the regular 16649
functioning of the other contracting party. 16650

(d) The individual is required to perform the work 16651
personally. 16652

(e) The individual is hired, supervised, or paid by the other 16653
contracting party. 16654

(f) A continuing relationship exists between the individual 16655
and the other contracting party that contemplates continuing or 16656
recurring work even if the work is not full time. 16657

(g) The individual's hours of work are established by the other contracting party.	16658 16659
(h) The individual is required to devote full time to the business of the other contracting party.	16660 16661
(i) The individual is required to perform the work on the premises of the other contracting party.	16662 16663
(j) The individual is required to follow the order of work set by the other contracting party.	16664 16665
(k) The individual is required to make oral or written reports of progress to the other contracting party.	16666 16667
(l) The individual is paid for services on a regular basis, including hourly, weekly, or monthly.	16668 16669
(m) The individual's expenses are paid for by the other contracting party.	16670 16671
(n) The individual's tools and materials are furnished by the other contracting party.	16672 16673
(o) The individual is provided with the facilities used to perform services.	16674 16675
(p) The individual does not realize a profit or suffer a loss as a result of the services provided.	16676 16677
(q) The individual is not performing services for a number of employers at the same time.	16678 16679
(r) The individual does not make the same services available to the general public.	16680 16681
(s) The other contracting party has a right to discharge the individual.	16682 16683
(t) The individual has the right to end the relationship with the other contracting party without incurring liability pursuant to an employment contract or agreement.	16684 16685 16686

Sec. 2317.02. The following persons shall not testify in 16687
certain respects: 16688

(A)(1) An attorney, concerning a communication made to the 16689
attorney by a client in that relation or the attorney's advice to 16690
a client, except that the attorney may testify by express consent 16691
of the client or, if the client is deceased, by the express 16692
consent of the surviving spouse or the executor or administrator 16693
of the estate of the deceased client. However, if the client 16694
voluntarily testifies or is deemed by section 2151.421 of the 16695
Revised Code to have waived any testimonial privilege under this 16696
division, the attorney may be compelled to testify on the same 16697
subject. 16698

The testimonial privilege established under this division 16699
does not apply concerning a communication between a client who has 16700
since died and the deceased client's attorney if the communication 16701
is relevant to a dispute between parties who claim through that 16702
deceased client, regardless of whether the claims are by testate 16703
or intestate succession or by inter vivos transaction, and the 16704
dispute addresses the competency of the deceased client when the 16705
deceased client executed a document that is the basis of the 16706
dispute or whether the deceased client was a victim of fraud, 16707
undue influence, or duress when the deceased client executed a 16708
document that is the basis of the dispute. 16709

(2) An attorney, concerning a communication made to the 16710
attorney by a client in that relationship or the attorney's advice 16711
to a client, except that if the client is an insurance company, 16712
the attorney may be compelled to testify, subject to an in camera 16713
inspection by a court, about communications made by the client to 16714
the attorney or by the attorney to the client that are related to 16715
the attorney's aiding or furthering an ongoing or future 16716
commission of bad faith by the client, if the party seeking 16717

disclosure of the communications has made a prima_facie showing of 16718
bad faith, fraud, or criminal misconduct by the client. 16719

(B)(1) A physician or a dentist concerning a communication 16720
made to the physician or dentist by a patient in that relation or 16721
the physician's or dentist's advice to a patient, except as 16722
otherwise provided in this division, division (B)(2), and division 16723
(B)(3) of this section, and except that, if the patient is deemed 16724
by section 2151.421 of the Revised Code to have waived any 16725
testimonial privilege under this division, the physician may be 16726
compelled to testify on the same subject. 16727

The testimonial privilege established under this division 16728
does not apply, and a physician or dentist may testify or may be 16729
compelled to testify, in any of the following circumstances: 16730

(a) In any civil action, in accordance with the discovery 16731
provisions of the Rules of Civil Procedure in connection with a 16732
civil action, or in connection with a claim under Chapter 4123. of 16733
the Revised Code, under any of the following circumstances: 16734

(i) If the patient or the guardian or other legal 16735
representative of the patient gives express consent; 16736

(ii) If the patient is deceased, the spouse of the patient or 16737
the executor or administrator of the patient's estate gives 16738
express consent; 16739

(iii) If a medical claim, dental claim, chiropractic claim, 16740
or optometric claim, as defined in section 2305.113 of the Revised 16741
Code, an action for wrongful death, any other type of civil 16742
action, or a claim under Chapter 4123. of the Revised Code is 16743
filed by the patient, the personal representative of the estate of 16744
the patient if deceased, or the patient's guardian or other legal 16745
representative. 16746

(b) In any civil action concerning court-ordered treatment or 16747
services received by a patient, if the court-ordered treatment or 16748

services were ordered as part of a case plan journalized under 16749
section 2151.412 of the Revised Code or the court-ordered 16750
treatment or services are necessary or relevant to dependency, 16751
neglect, or abuse or temporary or permanent custody proceedings 16752
under Chapter 2151. of the Revised Code. 16753

(c) In any criminal action concerning any test or the results 16754
of any test that determines the presence or concentration of 16755
alcohol, a drug of abuse, a combination of them, a controlled 16756
substance, or a metabolite of a controlled substance in the 16757
patient's whole blood, blood serum or plasma, breath, urine, or 16758
other bodily substance at any time relevant to the criminal 16759
offense in question. 16760

(d) In any criminal action against a physician or dentist. In 16761
such an action, the testimonial privilege established under this 16762
division does not prohibit the admission into evidence, in 16763
accordance with the Rules of Evidence, of a patient's medical or 16764
dental records or other communications between a patient and the 16765
physician or dentist that are related to the action and obtained 16766
by subpoena, search warrant, or other lawful means. A court that 16767
permits or compels a physician or dentist to testify in such an 16768
action or permits the introduction into evidence of patient 16769
records or other communications in such an action shall require 16770
that appropriate measures be taken to ensure that the 16771
confidentiality of any patient named or otherwise identified in 16772
the records is maintained. Measures to ensure confidentiality that 16773
may be taken by the court include sealing its records or deleting 16774
specific information from its records. 16775

(e)(i) If the communication was between a patient who has 16776
since died and the deceased patient's physician or dentist, the 16777
communication is relevant to a dispute between parties who claim 16778
through that deceased patient, regardless of whether the claims 16779
are by testate or intestate succession or by inter vivos 16780

transaction, and the dispute addresses the competency of the 16781
deceased patient when the deceased patient executed a document 16782
that is the basis of the dispute or whether the deceased patient 16783
was a victim of fraud, undue influence, or duress when the 16784
deceased patient executed a document that is the basis of the 16785
dispute. 16786

(ii) If neither the spouse of a patient nor the executor or 16787
administrator of that patient's estate gives consent under 16788
division (B)(1)(a)(ii) of this section, testimony or the 16789
disclosure of the patient's medical records by a physician, 16790
dentist, or other health care provider under division (B)(1)(e)(i) 16791
of this section is a permitted use or disclosure of protected 16792
health information, as defined in 45 C.F.R. 160.103, and an 16793
authorization or opportunity to be heard shall not be required. 16794

(iii) Division (B)(1)(e)(i) of this section does not require 16795
a mental health professional to disclose psychotherapy notes, as 16796
defined in 45 C.F.R. 164.501. 16797

(iv) An interested person who objects to testimony or 16798
disclosure under division (B)(1)(e)(i) of this section may seek a 16799
protective order pursuant to Civil Rule 26. 16800

(v) A person to whom protected health information is 16801
disclosed under division (B)(1)(e)(i) of this section shall not 16802
use or disclose the protected health information for any purpose 16803
other than the litigation or proceeding for which the information 16804
was requested and shall return the protected health information to 16805
the covered entity or destroy the protected health information, 16806
including all copies made, at the conclusion of the litigation or 16807
proceeding. 16808

(2)(a) If any law enforcement officer submits a written 16809
statement to a health care provider that states that an official 16810
criminal investigation has begun regarding a specified person or 16811

that a criminal action or proceeding has been commenced against a 16812
specified person, that requests the provider to supply to the 16813
officer copies of any records the provider possesses that pertain 16814
to any test or the results of any test administered to the 16815
specified person to determine the presence or concentration of 16816
alcohol, a drug of abuse, a combination of them, a controlled 16817
substance, or a metabolite of a controlled substance in the 16818
person's whole blood, blood serum or plasma, breath, or urine at 16819
any time relevant to the criminal offense in question, and that 16820
conforms to section 2317.022 of the Revised Code, the provider, 16821
except to the extent specifically prohibited by any law of this 16822
state or of the United States, shall supply to the officer a copy 16823
of any of the requested records the provider possesses. If the 16824
health care provider does not possess any of the requested 16825
records, the provider shall give the officer a written statement 16826
that indicates that the provider does not possess any of the 16827
requested records. 16828

(b) If a health care provider possesses any records of the 16829
type described in division (B)(2)(a) of this section regarding the 16830
person in question at any time relevant to the criminal offense in 16831
question, in lieu of personally testifying as to the results of 16832
the test in question, the custodian of the records may submit a 16833
certified copy of the records, and, upon its submission, the 16834
certified copy is qualified as authentic evidence and may be 16835
admitted as evidence in accordance with the Rules of Evidence. 16836
Division (A) of section 2317.422 of the Revised Code does not 16837
apply to any certified copy of records submitted in accordance 16838
with this division. Nothing in this division shall be construed to 16839
limit the right of any party to call as a witness the person who 16840
administered the test to which the records pertain, the person 16841
under whose supervision the test was administered, the custodian 16842
of the records, the person who made the records, or the person 16843
under whose supervision the records were made. 16844

(3)(a) If the testimonial privilege described in division 16845
(B)(1) of this section does not apply as provided in division 16846
(B)(1)(a)(iii) of this section, a physician or dentist may be 16847
compelled to testify or to submit to discovery under the Rules of 16848
Civil Procedure only as to a communication made to the physician 16849
or dentist by the patient in question in that relation, or the 16850
physician's or dentist's advice to the patient in question, that 16851
related causally or historically to physical or mental injuries 16852
that are relevant to issues in the medical claim, dental claim, 16853
chiropractic claim, or optometric claim, action for wrongful 16854
death, other civil action, or claim under Chapter 4123. of the 16855
Revised Code. 16856

(b) If the testimonial privilege described in division (B)(1) 16857
of this section does not apply to a physician or dentist as 16858
provided in division (B)(1)(c) of this section, the physician or 16859
dentist, in lieu of personally testifying as to the results of the 16860
test in question, may submit a certified copy of those results, 16861
and, upon its submission, the certified copy is qualified as 16862
authentic evidence and may be admitted as evidence in accordance 16863
with the Rules of Evidence. Division (A) of section 2317.422 of 16864
the Revised Code does not apply to any certified copy of results 16865
submitted in accordance with this division. Nothing in this 16866
division shall be construed to limit the right of any party to 16867
call as a witness the person who administered the test in 16868
question, the person under whose supervision the test was 16869
administered, the custodian of the results of the test, the person 16870
who compiled the results, or the person under whose supervision 16871
the results were compiled. 16872

(4) The testimonial privilege described in division (B)(1) of 16873
this section is not waived when a communication is made by a 16874
physician to a pharmacist or when there is communication between a 16875
patient and a pharmacist in furtherance of the physician-patient 16876

relation. 16877

(5)(a) As used in divisions (B)(1) to (4) of this section, 16878
"communication" means acquiring, recording, or transmitting any 16879
information, in any manner, concerning any facts, opinions, or 16880
statements necessary to enable a physician or dentist to diagnose, 16881
treat, prescribe, or act for a patient. A "communication" may 16882
include, but is not limited to, any medical or dental, office, or 16883
hospital communication such as a record, chart, letter, 16884
memorandum, laboratory test and results, x-ray, photograph, 16885
financial statement, diagnosis, or prognosis. 16886

(b) As used in division (B)(2) of this section, "health care 16887
provider" means a hospital, ambulatory care facility, long-term 16888
care facility, pharmacy, emergency facility, or health care 16889
practitioner. 16890

(c) As used in division (B)(5)(b) of this section: 16891

(i) "Ambulatory care facility" means a facility that provides 16892
medical, diagnostic, or surgical treatment to patients who do not 16893
require hospitalization, including a dialysis center, ambulatory 16894
surgical facility, cardiac catheterization facility, diagnostic 16895
imaging center, extracorporeal shock wave lithotripsy center, home 16896
health agency, inpatient hospice, birthing center, radiation 16897
therapy center, emergency facility, and an urgent care center. 16898
"Ambulatory health care facility" does not include the private 16899
office of a physician or dentist, whether the office is for an 16900
individual or group practice. 16901

(ii) "Emergency facility" means a hospital emergency 16902
department or any other facility that provides emergency medical 16903
services. 16904

(iii) "Health care practitioner" has the same meaning as in 16905
section 4769.01 of the Revised Code. 16906

(iv) "Hospital" has the same meaning as in section 3727.01 of 16907

the Revised Code. 16908

(v) "Long-term care facility" means a nursing home, 16909
residential care facility, or home for the aging, as those terms 16910
are defined in section 3721.01 of the Revised Code; ~~an adult care~~ 16911
~~a residential facility, as defined in licensed under~~ section 16912
~~5119.70 5119.22~~ of the Revised Code that provides accommodations, 16913
supervision, and personal care services for three to sixteen 16914
unrelated adults; a nursing facility or intermediate care facility 16915
for the mentally retarded, as those terms are defined in section 16916
5111.20 of the Revised Code; a facility or portion of a facility 16917
certified as a skilled nursing facility under Title XVIII of the 16918
"Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as 16919
amended. 16920

(vi) "Pharmacy" has the same meaning as in section 4729.01 of 16921
the Revised Code. 16922

(d) As used in divisions (B)(1) and (2) of this section, 16923
"drug of abuse" has the same meaning as in section 4506.01 of the 16924
Revised Code. 16925

(6) Divisions (B)(1), (2), (3), (4), and (5) of this section 16926
apply to doctors of medicine, doctors of osteopathic medicine, 16927
doctors of podiatry, and dentists. 16928

(7) Nothing in divisions (B)(1) to (6) of this section 16929
affects, or shall be construed as affecting, the immunity from 16930
civil liability conferred by section 307.628 of the Revised Code 16931
or the immunity from civil liability conferred by section 2305.33 16932
of the Revised Code upon physicians who report an employee's use 16933
of a drug of abuse, or a condition of an employee other than one 16934
involving the use of a drug of abuse, to the employer of the 16935
employee in accordance with division (B) of that section. As used 16936
in division (B)(7) of this section, "employee," "employer," and 16937
"physician" have the same meanings as in section 2305.33 of the 16938

Revised Code. 16939

(C)(1) A cleric, when the cleric remains accountable to the 16940
authority of that cleric's church, denomination, or sect, 16941
concerning a confession made, or any information confidentially 16942
communicated, to the cleric for a religious counseling purpose in 16943
the cleric's professional character. The cleric may testify by 16944
express consent of the person making the communication, except 16945
when the disclosure of the information is in violation of a sacred 16946
trust and except that, if the person voluntarily testifies or is 16947
deemed by division (A)(4)(c) of section 2151.421 of the Revised 16948
Code to have waived any testimonial privilege under this division, 16949
the cleric may be compelled to testify on the same subject except 16950
when disclosure of the information is in violation of a sacred 16951
trust. 16952

(2) As used in division (C) of this section: 16953

(a) "Cleric" means a member of the clergy, rabbi, priest, 16954
Christian Science practitioner, or regularly ordained, accredited, 16955
or licensed minister of an established and legally cognizable 16956
church, denomination, or sect. 16957

(b) "Sacred trust" means a confession or confidential 16958
communication made to a cleric in the cleric's ecclesiastical 16959
capacity in the course of discipline enjoined by the church to 16960
which the cleric belongs, including, but not limited to, the 16961
Catholic Church, if both of the following apply: 16962

(i) The confession or confidential communication was made 16963
directly to the cleric. 16964

(ii) The confession or confidential communication was made in 16965
the manner and context that places the cleric specifically and 16966
strictly under a level of confidentiality that is considered 16967
inviolable by canon law or church doctrine. 16968

(D) Husband or wife, concerning any communication made by one 16969

to the other, or an act done by either in the presence of the 16970
other, during coverture, unless the communication was made, or act 16971
done, in the known presence or hearing of a third person competent 16972
to be a witness; and such rule is the same if the marital relation 16973
has ceased to exist; 16974

(E) A person who assigns a claim or interest, concerning any 16975
matter in respect to which the person would not, if a party, be 16976
permitted to testify; 16977

(F) A person who, if a party, would be restricted under 16978
section 2317.03 of the Revised Code, when the property or thing is 16979
sold or transferred by an executor, administrator, guardian, 16980
trustee, heir, devisee, or legatee, shall be restricted in the 16981
same manner in any action or proceeding concerning the property or 16982
thing. 16983

(G)(1) A school guidance counselor who holds a valid educator 16984
license from the state board of education as provided for in 16985
section 3319.22 of the Revised Code, a person licensed under 16986
Chapter 4757. of the Revised Code as a professional clinical 16987
counselor, professional counselor, social worker, independent 16988
social worker, marriage and family therapist or independent 16989
marriage and family therapist, or registered under Chapter 4757. 16990
of the Revised Code as a social work assistant concerning a 16991
confidential communication received from a client in that relation 16992
or the person's advice to a client unless any of the following 16993
applies: 16994

(a) The communication or advice indicates clear and present 16995
danger to the client or other persons. For the purposes of this 16996
division, cases in which there are indications of present or past 16997
child abuse or neglect of the client constitute a clear and 16998
present danger. 16999

(b) The client gives express consent to the testimony. 17000

(c) If the client is deceased, the surviving spouse or the executor or administrator of the estate of the deceased client gives express consent. 17001
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(d) The client voluntarily testifies, in which case the school guidance counselor or person licensed or registered under Chapter 4757. of the Revised Code may be compelled to testify on the same subject. 17004
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(e) The court in camera determines that the information communicated by the client is not germane to the counselor-client, marriage and family therapist-client, or social worker-client relationship. 17008
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(f) A court, in an action brought against a school, its administration, or any of its personnel by the client, rules after an in-camera inspection that the testimony of the school guidance counselor is relevant to that action. 17012
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(g) The testimony is sought in a civil action and concerns court-ordered treatment or services received by a patient as part of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151. of the Revised Code. 17016
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(2) Nothing in division (G)(1) of this section shall relieve a school guidance counselor or a person licensed or registered under Chapter 4757. of the Revised Code from the requirement to report information concerning child abuse or neglect under section 2151.421 of the Revised Code. 17023
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(H) A mediator acting under a mediation order issued under division (A) of section 3109.052 of the Revised Code or otherwise issued in any proceeding for divorce, dissolution, legal separation, annulment, or the allocation of parental rights and 17028
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responsibilities for the care of children, in any action or 17032
proceeding, other than a criminal, delinquency, child abuse, child 17033
neglect, or dependent child action or proceeding, that is brought 17034
by or against either parent who takes part in mediation in 17035
accordance with the order and that pertains to the mediation 17036
process, to any information discussed or presented in the 17037
mediation process, to the allocation of parental rights and 17038
responsibilities for the care of the parents' children, or to the 17039
awarding of parenting time rights in relation to their children; 17040

(I) A communications assistant, acting within the scope of 17041
the communication assistant's authority, when providing 17042
telecommunications relay service pursuant to section 4931.06 of 17043
the Revised Code or Title II of the "Communications Act of 1934," 17044
104 Stat. 366 (1990), 47 U.S.C. 225, concerning a communication 17045
made through a telecommunications relay service. Nothing in this 17046
section shall limit the obligation of a communications assistant 17047
to divulge information or testify when mandated by federal law or 17048
regulation or pursuant to subpoena in a criminal proceeding. 17049

Nothing in this section shall limit any immunity or privilege 17050
granted under federal law or regulation. 17051

(J)(1) A chiropractor in a civil proceeding concerning a 17052
communication made to the chiropractor by a patient in that 17053
relation or the chiropractor's advice to a patient, except as 17054
otherwise provided in this division. The testimonial privilege 17055
established under this division does not apply, and a chiropractor 17056
may testify or may be compelled to testify, in any civil action, 17057
in accordance with the discovery provisions of the Rules of Civil 17058
Procedure in connection with a civil action, or in connection with 17059
a claim under Chapter 4123. of the Revised Code, under any of the 17060
following circumstances: 17061

(a) If the patient or the guardian or other legal 17062
representative of the patient gives express consent. 17063

(b) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient's estate gives express consent.

(c) If a medical claim, dental claim, chiropractic claim, or optometric claim, as defined in section 2305.113 of the Revised Code, an action for wrongful death, any other type of civil action, or a claim under Chapter 4123. of the Revised Code is filed by the patient, the personal representative of the estate of the patient if deceased, or the patient's guardian or other legal representative.

(2) If the testimonial privilege described in division (J)(1) of this section does not apply as provided in division (J)(1)(c) of this section, a chiropractor may be compelled to testify or to submit to discovery under the Rules of Civil Procedure only as to a communication made to the chiropractor by the patient in question in that relation, or the chiropractor's advice to the patient in question, that related causally or historically to physical or mental injuries that are relevant to issues in the medical claim, dental claim, chiropractic claim, or optometric claim, action for wrongful death, other civil action, or claim under Chapter 4123. of the Revised Code.

(3) The testimonial privilege established under this division does not apply, and a chiropractor may testify or be compelled to testify, in any criminal action or administrative proceeding.

(4) As used in this division, "communication" means acquiring, recording, or transmitting any information, in any manner, concerning any facts, opinions, or statements necessary to enable a chiropractor to diagnose, treat, or act for a patient. A communication may include, but is not limited to, any chiropractic, office, or hospital communication such as a record, chart, letter, memorandum, laboratory test and results, x-ray, photograph, financial statement, diagnosis, or prognosis.

(K)(1) Except as provided under division (K)(2) of this section, a critical incident stress management team member concerning a communication received from an individual who receives crisis response services from the team member, or the team member's advice to the individual, during a debriefing session.

(2) The testimonial privilege established under division (K)(1) of this section does not apply if any of the following are true:

(a) The communication or advice indicates clear and present danger to the individual who receives crisis response services or to other persons. For purposes of this division, cases in which there are indications of present or past child abuse or neglect of the individual constitute a clear and present danger.

(b) The individual who received crisis response services gives express consent to the testimony.

(c) If the individual who received crisis response services is deceased, the surviving spouse or the executor or administrator of the estate of the deceased individual gives express consent.

(d) The individual who received crisis response services voluntarily testifies, in which case the team member may be compelled to testify on the same subject.

(e) The court in camera determines that the information communicated by the individual who received crisis response services is not germane to the relationship between the individual and the team member.

(f) The communication or advice pertains or is related to any criminal act.

(3) As used in division (K) of this section:

(a) "Crisis response services" means consultation, risk

assessment, referral, and on-site crisis intervention services 17126
provided by a critical incident stress management team to 17127
individuals affected by crisis or disaster. 17128

(b) "Critical incident stress management team member" or 17129
"team member" means an individual specially trained to provide 17130
crisis response services as a member of an organized community or 17131
local crisis response team that holds membership in the Ohio 17132
critical incident stress management network. 17133

(c) "Debriefing session" means a session at which crisis 17134
response services are rendered by a critical incident stress 17135
management team member during or after a crisis or disaster. 17136

(L)(1) Subject to division (L)(2) of this section and except 17137
as provided in division (L)(3) of this section, an employee 17138
assistance professional, concerning a communication made to the 17139
employee assistance professional by a client in the employee 17140
assistance professional's official capacity as an employee 17141
assistance professional. 17142

(2) Division (L)(1) of this section applies to an employee 17143
assistance professional who meets either or both of the following 17144
requirements: 17145

(a) Is certified by the employee assistance certification 17146
commission to engage in the employee assistance profession; 17147

(b) Has education, training, and experience in all of the 17148
following: 17149

(i) Providing workplace-based services designed to address 17150
employer and employee productivity issues; 17151

(ii) Providing assistance to employees and employees' 17152
dependents in identifying and finding the means to resolve 17153
personal problems that affect the employees or the employees' 17154
performance; 17155

(iii) Identifying and resolving productivity problems	17156
associated with an employee's concerns about any of the following	17157
matters: health, marriage, family, finances, substance abuse or	17158
other addiction, workplace, law, and emotional issues;	17159
(iv) Selecting and evaluating available community resources;	17160
(v) Making appropriate referrals;	17161
(vi) Local and national employee assistance agreements;	17162
(vii) Client confidentiality.	17163
(3) Division (L)(1) of this section does not apply to any of	17164
the following:	17165
(a) A criminal action or proceeding involving an offense	17166
under sections 2903.01 to 2903.06 of the Revised Code if the	17167
employee assistance professional's disclosure or testimony relates	17168
directly to the facts or immediate circumstances of the offense;	17169
(b) A communication made by a client to an employee	17170
assistance professional that reveals the contemplation or	17171
commission of a crime or serious, harmful act;	17172
(c) A communication that is made by a client who is an	17173
unemancipated minor or an adult adjudicated to be incompetent and	17174
indicates that the client was the victim of a crime or abuse;	17175
(d) A civil proceeding to determine an individual's mental	17176
competency or a criminal action in which a plea of not guilty by	17177
reason of insanity is entered;	17178
(e) A civil or criminal malpractice action brought against	17179
the employee assistance professional;	17180
(f) When the employee assistance professional has the express	17181
consent of the client or, if the client is deceased or disabled,	17182
the client's legal representative;	17183
(g) When the testimonial privilege otherwise provided by	17184

division (L)(1) of this section is abrogated under law. 17185

Sec. 2317.422. (A) Notwithstanding sections 2317.40 and 17186
2317.41 of the Revised Code but subject to division (B) of this 17187
section, the records, or copies or photographs of the records, of 17188
a hospital, homes required to be licensed pursuant to section 17189
3721.01 of the Revised Code, and ~~adult care~~ residential facilities 17190
~~required to be~~ licensed pursuant to ~~Chapter 5119.~~ section 5119.22 17191
of the Revised Code that provides accommodations, supervision, and 17192
personal care services for three to sixteen unrelated adults, in 17193
lieu of the testimony in open court of their custodian, person who 17194
made them, or person under whose supervision they were made, may 17195
be qualified as authentic evidence if any such person endorses 17196
thereon the person's verified certification identifying such 17197
records, giving the mode and time of their preparation, and 17198
stating that they were prepared in the usual course of the 17199
business of the institution. Such records, copies, or photographs 17200
may not be qualified by certification as provided in this section 17201
unless the party intending to offer them delivers a copy of them, 17202
or of their relevant portions, to the attorney of record for each 17203
adverse party not less than five days before trial. Nothing in 17204
this section shall be construed to limit the right of any party to 17205
call the custodian, person who made such records, or person under 17206
whose supervision they were made, as a witness. 17207

(B) Division (A) of this section does not apply to any 17208
certified copy of the results of any test given to determine the 17209
presence or concentration of alcohol, a drug of abuse, a 17210
combination of them, a controlled substance, or a metabolite of a 17211
controlled substance in a patient's whole blood, blood serum or 17212
plasma, breath, or urine at any time relevant to a criminal 17213
offense that is submitted in a criminal action or proceeding in 17214
accordance with division (B)(2)(b) or (B)(3)(b) of section 2317.02 17215
of the Revised Code. 17216

Sec. 2317.56. (A) As used in this section: 17217

(1) "Medical emergency" means a condition of a pregnant woman 17218
that, in the reasonable judgment of the physician who is attending 17219
the woman, creates an immediate threat of serious risk to the life 17220
or physical health of the woman from the continuation of the 17221
pregnancy necessitating the immediate performance or inducement of 17222
an abortion. 17223

(2) "Medical necessity" means a medical condition of a 17224
pregnant woman that, in the reasonable judgment of the physician 17225
who is attending the woman, so complicates the pregnancy that it 17226
necessitates the immediate performance or inducement of an 17227
abortion. 17228

(3) "Probable gestational age of the embryo or fetus" means 17229
the gestational age that, in the judgment of a physician, is, with 17230
reasonable probability, the gestational age of the embryo or fetus 17231
at the time that the physician informs a pregnant woman pursuant 17232
to division (B)(1)(b) of this section. 17233

(B) Except when there is a medical emergency or medical 17234
necessity, an abortion shall be performed or induced only if all 17235
of the following conditions are satisfied: 17236

(1) At least twenty-four hours prior to the performance or 17237
inducement of the abortion, a physician meets with the pregnant 17238
woman in person in an individual, private setting and gives her an 17239
adequate opportunity to ask questions about the abortion that will 17240
be performed or induced. At this meeting, the physician shall 17241
inform the pregnant woman, verbally or, if she is hearing 17242
impaired, by other means of communication, of all of the 17243
following: 17244

(a) The nature and purpose of the particular abortion 17245
procedure to be used and the medical risks associated with that 17246

procedure;	17247
(b) The probable gestational age of the embryo or fetus;	17248
(c) The medical risks associated with the pregnant woman carrying the pregnancy to term.	17249 17250
The meeting need not occur at the facility where the abortion is to be performed or induced, and the physician involved in the meeting need not be affiliated with that facility or with the physician who is scheduled to perform or induce the abortion.	17251 17252 17253 17254
(2) At least twenty-four hours prior to the performance or inducement of the abortion, one or more physicians or one or more agents of one or more physicians do each of the following in person, by telephone, by certified mail, return receipt requested, or by regular mail evidenced by a certificate of mailing:	17255 17256 17257 17258 17259
(a) Inform the pregnant woman of the name of the physician who is scheduled to perform or induce the abortion;	17260 17261
(b) Give the pregnant woman copies of the published materials described in division (C) of this section;	17262 17263
(c) Inform the pregnant woman that the materials given pursuant to division (B)(2)(b) of this section are provided <u>published</u> by the state and that they describe the embryo or fetus and list agencies that offer alternatives to abortion. The pregnant woman may choose to examine or not to examine the materials. A physician or an agent of a physician may choose to be disassociated from the materials and may choose to comment or not comment on the materials.	17264 17265 17266 17267 17268 17269 17270 17271
(3) Prior to the performance or inducement of the abortion, the pregnant woman signs a form consenting to the abortion and certifies both of the following on that form:	17272 17273 17274
(a) She has received the information and materials described in divisions (B)(1) and (2) of this section, and her questions	17275 17276

about the abortion that will be performed or induced have been 17277
answered in a satisfactory manner. 17278

(b) She consents to the particular abortion voluntarily, 17279
knowingly, intelligently, and without coercion by any person, and 17280
she is not under the influence of any drug of abuse or alcohol. 17281

(4) Prior to the performance or inducement of the abortion, 17282
the physician who is scheduled to perform or induce the abortion 17283
or the physician's agent receives a copy of the pregnant woman's 17284
signed form on which she consents to the abortion and that 17285
includes the certification required by division (B)(3) of this 17286
section. 17287

(C) The department of health shall ~~cause to be published~~ 17288
publish in English and in Spanish, in a typeface large enough to 17289
be clearly legible, and in an easily comprehensible format, the 17290
following materials on the department's web site: 17291

(1) Materials that inform the pregnant woman about family 17292
planning information, of publicly funded agencies that are 17293
available to assist in family planning, and of public and private 17294
agencies and services that are available to assist her through the 17295
pregnancy, upon childbirth, and while the child is dependent, 17296
including, but not limited to, adoption agencies. The materials 17297
shall be geographically indexed; include a comprehensive list of 17298
the available agencies, a description of the services offered by 17299
the agencies, and the telephone numbers and addresses of the 17300
agencies; and inform the pregnant woman about available medical 17301
assistance benefits for prenatal care, childbirth, and neonatal 17302
care and about the support obligations of the father of a child 17303
who is born alive. The department shall ensure that the materials 17304
described in division (C)(1) of this section are comprehensive and 17305
do not directly or indirectly promote, exclude, or discourage the 17306
use of any agency or service described in this division. 17307

(2) Materials that inform the pregnant woman of the probable anatomical and physiological characteristics of the zygote, blastocyte, embryo, or fetus at two-week gestational increments for the first sixteen weeks of pregnancy and at four-week gestational increments from the seventeenth week of pregnancy to full term, including any relevant information regarding the time at which the fetus possibly would be viable. The department shall cause these materials to be published only after it consults with the Ohio state medical association and the Ohio section of the American college of obstetricians and gynecologists relative to the probable anatomical and physiological characteristics of a zygote, blastocyte, embryo, or fetus at the various gestational increments. The materials shall use language that is understandable by the average person who is not medically trained, shall be objective and nonjudgmental, and shall include only accurate scientific information about the zygote, blastocyte, embryo, or fetus at the various gestational increments. If the materials use a pictorial, photographic, or other depiction to provide information regarding the zygote, blastocyte, embryo, or fetus, the materials shall include, in a conspicuous manner, a scale or other explanation that is understandable by the average person and that can be used to determine the actual size of the zygote, blastocyte, embryo, or fetus at a particular gestational increment as contrasted with the depicted size of the zygote, blastocyte, embryo, or fetus at that gestational increment.

(D) Upon the submission of a request to the department of health by any person, hospital, physician, or medical facility for one ~~or more copies~~ copy of the materials published in accordance with division (C) of this section, the department shall make the requested ~~number of copies~~ copy of the materials available to the person, hospital, physician, or medical facility that requested the ~~copies~~ copy.

(E) If a medical emergency or medical necessity compels the performance or inducement of an abortion, the physician who will perform or induce the abortion, prior to its performance or inducement if possible, shall inform the pregnant woman of the medical indications supporting the physician's judgment that an immediate abortion is necessary. Any physician who performs or induces an abortion without the prior satisfaction of the conditions specified in division (B) of this section because of a medical emergency or medical necessity shall enter the reasons for the conclusion that a medical emergency or medical necessity exists in the medical record of the pregnant woman.

(F) If the conditions specified in division (B) of this section are satisfied, consent to an abortion shall be presumed to be valid and effective.

(G) The performance or inducement of an abortion without the prior satisfaction of the conditions specified in division (B) of this section does not constitute, and shall not be construed as constituting, a violation of division (A) of section 2919.12 of the Revised Code. The failure of a physician to satisfy the conditions of division (B) of this section prior to performing or inducing an abortion upon a pregnant woman may be the basis of both of the following:

(1) A civil action for compensatory and exemplary damages as described in division (H) of this section;

(2) Disciplinary action under section 4731.22 of the Revised Code.

(H)(1) Subject to divisions (H)(2) and (3) of this section, any physician who performs or induces an abortion with actual knowledge that the conditions specified in division (B) of this section have not been satisfied or with a heedless indifference as to whether those conditions have been satisfied is liable in

compensatory and exemplary damages in a civil action to any 17371
person, or the representative of the estate of any person, who 17372
sustains injury, death, or loss to person or property as a result 17373
of the failure to satisfy those conditions. In the civil action, 17374
the court additionally may enter any injunctive or other equitable 17375
relief that it considers appropriate. 17376

(2) The following shall be affirmative defenses in a civil 17377
action authorized by division (H)(1) of this section: 17378

(a) The physician performed or induced the abortion under the 17379
circumstances described in division (E) of this section. 17380

(b) The physician made a good faith effort to satisfy the 17381
conditions specified in division (B) of this section. 17382

~~(c) The physician or an agent of the physician requested 17383
copies of the materials published in accordance with division (C) 17384
of this section from the department of health, but the physician 17385
was not able to give a pregnant woman copies of the materials 17386
pursuant to division (B)(2) of this section and to obtain a 17387
certification as described in divisions (B)(3) and (4) of this 17388
section because the department failed to make the requested number 17389
of copies available to the physician or agent in accordance with 17390
division (D) of this section. 17391~~

(3) An employer or other principal is not liable in damages 17392
in a civil action authorized by division (H)(1) of this section on 17393
the basis of the doctrine of respondeat superior unless either of 17394
the following applies: 17395

(a) The employer or other principal had actual knowledge or, 17396
by the exercise of reasonable diligence, should have known that an 17397
employee or agent performed or induced an abortion with actual 17398
knowledge that the conditions specified in division (B) of this 17399
section had not been satisfied or with a heedless indifference as 17400
to whether those conditions had been satisfied. 17401

(b) The employer or other principal negligently failed to 17402
secure the compliance of an employee or agent with division (B) of 17403
this section. 17404

(4) Notwithstanding division (E) of section 2919.12 of the 17405
Revised Code, the civil action authorized by division (H)(1) of 17406
this section shall be the exclusive civil remedy for persons, or 17407
the representatives of estates of persons, who allegedly sustain 17408
injury, death, or loss to person or property as a result of a 17409
failure to satisfy the conditions specified in division (B) of 17410
this section. 17411

(I) The department of job and family services shall prepare 17412
and conduct a public information program to inform women of all 17413
available governmental programs and agencies that provide services 17414
or assistance for family planning, prenatal care, child care, or 17415
alternatives to abortion. 17416

Sec. 2319.27. Except as section 147.08 of the Revised Code 17417
governs the fees chargeable by a notary public for services 17418
rendered in connection with depositions, the fees and expenses 17419
chargeable for the taking and certifying of a deposition by a 17420
person who is authorized to do so in this state, including, but 17421
not limited to, a ~~shorthand~~ reporter, stenographer, or person 17422
described in Civil Rule 28, may be established by that person 17423
subject to the qualification specified in this section, and may be 17424
different than the fees and expenses charged for the taking and 17425
certifying of depositions by similar persons in other areas of 17426
this state. Unless, prior to the taking and certifying of a 17427
deposition, the parties who request it agree that the fees or 17428
expenses to be charged may exceed the usual and customary fees or 17429
expenses charged in the particular community for similar services, 17430
such a person shall not charge fees or expenses in connection with 17431
the taking and certifying of the deposition that exceed those 17432

usual and customary fees and expenses. 17433

The person taking and certifying a deposition may retain the 17434
deposition until the fees and expenses that ~~he~~ the person charged 17435
are paid. ~~He~~ The person also shall tax the costs, if any, of a 17436
sheriff or other officer who serves any process in connection with 17437
the taking of a deposition and the fees of the witnesses, and, if 17438
directed by a person entitled to those costs or fees, may retain 17439
the deposition until those costs or fees are paid. 17440

Sec. 2501.02. Each judge of a court of appeals shall have 17441
been admitted to practice as an attorney at law in this state and 17442
have, for a total of six years preceding the judge's appointment 17443
or commencement of the judge's term, engaged in the practice of 17444
law or served as a judge of a court of record in any jurisdiction 17445
in the United States, or both. At least two of the years of 17446
practice or service that qualify a judge shall have been in this 17447
state. One judge shall be chosen in each court of appeals district 17448
every two years, and shall hold office for six years, beginning on 17449
the ninth day of February next after the judge's election. 17450

In addition to the original jurisdiction conferred by Section 17451
3 of Article IV, Ohio Constitution, the court shall have 17452
jurisdiction upon an appeal upon questions of law to review, 17453
affirm, modify, set aside, or reverse judgments or final orders of 17454
courts of record inferior to the court of appeals within the 17455
district, including the finding, order, or judgment of a juvenile 17456
court that a child is delinquent, neglected, abused, or dependent, 17457
and upon any appeal brought by any party, including a public 17458
children services agency, in relation to a ruling on a motion to 17459
modify a prior dispositional order, for prejudicial error 17460
committed by such lower court. 17461

The court, on good cause shown, may issue writs of 17462
supersedeas in any case, and all other writs, not specially 17463

provided for or prohibited by statute, necessary to enforce the 17464
administration of justice. 17465

Sec. 2501.16. (A) Each court of appeals may appoint one or 17466
more official ~~shorthand~~ reporters, law clerks, secretaries, and 17467
any other employees that the court considers necessary for its 17468
efficient operation. 17469

The clerk of the court of common pleas, acting as the clerk 17470
of the court of appeals for the county, shall perform the duties 17471
otherwise performed and collect the fees otherwise collected by 17472
the clerk of the court of common pleas, as set forth in section 17473
2303.03 of the Revised Code, and shall maintain the files and 17474
records of the court. The clerk of the court of common pleas, 17475
acting as the clerk of the court of appeals for the county, may 17476
refuse to accept for filing any pleading or paper submitted for 17477
filing by a person who has been found to be a vexatious litigator 17478
under section 2323.52 of the Revised Code and who has failed to 17479
obtain leave from the court of appeals to proceed under that 17480
section. The overhead expenses pertaining to the office of the 17481
clerk of the court of common pleas that result from the clerk's 17482
acting as clerk of the court of appeals for the county, other than 17483
wages and salaries, shall be paid from the funds provided under 17484
sections 2501.18 and 2501.181 of the Revised Code. 17485

Each officer and employee appointed pursuant to this section 17486
shall take an oath of office, serve at the pleasure of the court, 17487
and perform any duties that the court directs. Each ~~shorthand~~ 17488
reporter shall have the powers that are vested in official 17489
~~shorthand~~ reporters of the court of common pleas under sections 17490
2301.18 to 2301.26 of the Revised Code. Whenever an opinion, per 17491
curiam, or report of a case has been prepared in accordance with 17492
section 2503.20 of the Revised Code, the official ~~shorthand~~ 17493
reporter immediately shall forward one copy of the opinion, per 17494

curiam, or report to the reporter of the supreme court, without 17495
expense to the reporter. 17496

(B) The court of appeals may determine that, for the 17497
efficient operation of the court, additional funds are necessary 17498
to acquire and pay for special projects of the court, including, 17499
but not limited to, the acquisition of additional facilities or 17500
the rehabilitation of existing facilities, the acquisition of 17501
equipment, the hiring and training of staff, the employment of 17502
magistrates, the training and education of judges, acting judges, 17503
and magistrates, community service programs, and other related 17504
services. Upon that determination, the court by rule may charge a 17505
fee, in addition to all other court costs, on the filing of each 17506
case or cause over which the court has jurisdiction. 17507

If the court of appeals offers a special program or service 17508
in cases of a specific type, the court by rule may assess an 17509
additional charge in a case of that type, over and above court 17510
costs, to cover the special program or service. The court shall 17511
adjust the special assessment periodically, but not retroactively, 17512
so that the amount assessed in those cases does not exceed the 17513
actual cost of providing the service or program. 17514

All moneys collected under division (B) of this section shall 17515
be paid to the county treasurer of the county selected as the 17516
principal seat of that court of appeals for deposit into either a 17517
general special projects fund or a fund established for a specific 17518
special project. Moneys from a fund of that nature shall be 17519
disbursed upon an order of the court in an amount no greater than 17520
the actual cost to the court of a project. If a specific fund is 17521
terminated because of the discontinuance of a program or service 17522
established under division (B) of this section, the court may 17523
order that moneys remaining in the fund be transferred to an 17524
account established under this division for a similar purpose. 17525

Sec. 2501.17. Each officer and employee of a court of appeals 17526
appointed under section 2501.16 of the Revised Code shall receive 17527
the compensation that is fixed by the court of appeals and payable 17528
from the state treasury upon the certificate of the presiding or 17529
administrative judge of the district in which the officer or 17530
employee serves. The additional amount of compensation that the 17531
clerk of the court of common pleas receives for acting as the 17532
clerk of the court of appeals in ~~his~~ the clerk's county and 17533
assuming the duties of that office and that is equal to one-eighth 17534
of the annual compensation that ~~he~~ the clerk receives pursuant to 17535
sections 325.08 and 325.18 of the Revised Code for being the clerk 17536
of the court of common pleas is payable from the state treasury 17537
upon the certificate of the presiding or administrative judge of 17538
the district in which the clerk serves. 17539

~~Shorthand reporters~~ Reporters may receive additional 17540
compensation for transcripts of evidence, the fee for the 17541
transcripts to be fixed by the judges of the court of appeals and 17542
paid and collected in the same manner as the fees for transcripts 17543
furnished by official ~~shorthand~~ reporters of the court of common 17544
pleas under section 2301.24 of the Revised Code. ~~Shorthand~~ 17545
~~reporters~~ Reporters appointed for a term of less than one year 17546
shall receive a per diem compensation of not less than thirty 17547
dollars per day. All ~~shorthand~~ reporters shall receive their 17548
actual expenses for traveling when attending court in any county 17549
other than that in which they reside, to be paid as provided by 17550
section ~~2301.24~~ 2301.22 of the Revised Code. 17551

Sec. 2743.01. As used in this chapter: 17552

(A) ~~"State"~~ Subject to sections 2743.021 and 2743.022 of the 17553
Revised Code, "state" means the state of Ohio, including, but not 17554
limited to, the general assembly, the supreme court, the offices 17555
of all elected state officers, and all departments, boards, 17556

offices, commissions, agencies, institutions, and other 17557
instrumentalities of the state. "State" does not include political 17558
subdivisions. 17559

(B) "Political subdivisions" means municipal corporations, 17560
townships, counties, school districts, and all other bodies 17561
corporate and politic responsible for governmental activities only 17562
in geographic areas smaller than that of the state to which the 17563
sovereign immunity of the state attaches. 17564

(C) "Claim for an award of reparations" or "claim" means a 17565
claim for an award of reparations made under sections 2743.51 to 17566
2743.72 of the Revised Code. 17567

(D) "Award of reparations" or "award" means an award made 17568
under sections 2743.51 to 2743.72 of the Revised Code. 17569

(E)(1) "Public duty" includes, but is not limited to, any 17570
statutory, regulatory, or assumed duty concerning any action or 17571
omission of the state involving any of the following: 17572

(a) Permitting, certifying, licensing, inspecting, 17573
investigating, supervising, regulating, auditing, monitoring, law 17574
enforcement, or emergency response activity; 17575

(b) Supervising, rehabilitating, or liquidating corporations 17576
or other business entities. 17577

(2) "Public duty" does not include any action of the state 17578
under circumstances in which a special relationship can be 17579
established between the state and an injured party as provided in 17580
division (A)(3) of section 2743.02 of the Revised Code. 17581

Sec. 2743.02. (A)(1) The state hereby waives its immunity 17582
from liability, except as provided for the office of the state 17583
fire marshal in division (G)(1) of section 9.60 and division (B) 17584
of section 3737.221 of the Revised Code and subject to division 17585
(H) of this section, and consents to be sued, and have its 17586

liability determined, in the court of claims created in this 17587
chapter in accordance with the same rules of law applicable to 17588
suits between private parties, except that the determination of 17589
liability is subject to the limitations set forth in this chapter 17590
and, in the case of state universities or colleges, in section 17591
3345.40 of the Revised Code, except that the determination of 17592
liability of the department of transportation is subject to 17593
sections 2743.021 and 2743.022 of the Revised Code, and except as 17594
provided in division (A)(2) or (3) of this section. To the extent 17595
that the state has previously consented to be sued, this chapter 17596
has no applicability. 17597

Except in the case of a civil action filed by the state, 17598
filing a civil action in the court of claims results in a complete 17599
waiver of any cause of action, based on the same act or omission, 17600
~~which that~~ the filing party has against any officer or employee, 17601
as defined in section 109.36 of the Revised Code. The waiver shall 17602
be void if the court determines that the act or omission was 17603
manifestly outside the scope of the officer's or employee's office 17604
or employment or that the officer or employee acted with malicious 17605
purpose, in bad faith, or in a wanton or reckless manner. 17606

(2) If a claimant proves in the court of claims that an 17607
officer or employee, as defined in section 109.36 of the Revised 17608
Code, would have personal liability for the officer's or 17609
employee's acts or omissions but for the fact that the officer or 17610
employee has personal immunity under section 9.86 of the Revised 17611
Code, the state shall be held liable in the court of claims in any 17612
action that is timely filed pursuant to section 2743.16 of the 17613
Revised Code and that is based upon the acts or omissions. 17614

(3)(a) Except as provided in division (A)(3)(b) of this 17615
section, the state is immune from liability in any civil action or 17616
proceeding involving the performance or nonperformance of a public 17617
duty, including the performance or nonperformance of a public duty 17618

that is owed by the state in relation to any action of an 17619
individual who is committed to the custody of the state. 17620

(b) The state immunity provided in division (A)(3)(a) of this 17621
section does not apply to any action of the state under 17622
circumstances in which a special relationship can be established 17623
between the state and an injured party. A special relationship 17624
under this division is demonstrated if all of the following 17625
elements exist: 17626

(i) An assumption by the state, by means of promises or 17627
actions, of an affirmative duty to act on behalf of the party who 17628
was allegedly injured; 17629

(ii) Knowledge on the part of the state's agents that 17630
inaction of the state could lead to harm; 17631

(iii) Some form of direct contact between the state's agents 17632
and the injured party; 17633

(iv) The injured party's justifiable reliance on the state's 17634
affirmative undertaking. 17635

(B) The state hereby waives the immunity from liability of 17636
all hospitals owned or operated by one or more political 17637
subdivisions and consents for them to be sued, and to have their 17638
liability determined, in the court of common pleas, in accordance 17639
with the same rules of law applicable to suits between private 17640
parties, subject to the limitations set forth in this chapter. 17641
This division is also applicable to hospitals owned or operated by 17642
political subdivisions ~~which~~ that have been determined by the 17643
supreme court to be subject to suit prior to July 28, 1975. 17644

(C) Any hospital, as defined in section 2305.113 of the 17645
Revised Code, may purchase liability insurance covering its 17646
operations and activities and its agents, employees, nurses, 17647
interns, residents, staff, and members of the governing board and 17648
committees, and, whether or not such insurance is purchased, may, 17649

to ~~such the~~ extent ~~as that~~ its governing board considers 17650
appropriate, indemnify or agree to indemnify and hold harmless any 17651
such person against expense, including attorney's fees, damage, 17652
loss, or other liability arising out of, or claimed to have arisen 17653
out of, the death, disease, or injury of any person as a result of 17654
the negligence, malpractice, or other action or inaction of the 17655
indemnified person while acting within the scope of the 17656
indemnified person's duties or engaged in activities at the 17657
request or direction, or for the benefit, of the hospital. Any 17658
hospital electing to indemnify ~~such those~~ persons, or to agree to 17659
so indemnify, shall reserve ~~such any~~ funds ~~as that~~ are necessary, 17660
in the exercise of sound and prudent actuarial judgment, to cover 17661
the potential expense, fees, damage, loss, or other liability. The 17662
superintendent of insurance may recommend, or, if ~~such the~~ 17663
hospital requests the superintendent to do so, the superintendent 17664
shall recommend, a specific amount for any period that, in the 17665
superintendent's opinion, represents such a judgment. This 17666
authority is in addition to any authorization otherwise provided 17667
or permitted by law. 17668

(D) Recoveries against the state shall be reduced by the 17669
aggregate of insurance proceeds, disability award, or other 17670
collateral recovery received by the claimant. This division does 17671
not apply to civil actions in the court of claims against a state 17672
university or college under the circumstances described in section 17673
3345.40 of the Revised Code. The collateral benefits provisions of 17674
division (B)(2) of that section apply under those circumstances. 17675

(E) The only defendant in original actions in the court of 17676
claims is the state. The state may file a third-party complaint or 17677
counterclaim in any civil action, except a civil action for ~~two~~ 17678
~~ten~~ thousand ~~five hundred~~ dollars or less, that is filed in the 17679
court of claims. 17680

(F) A civil action against an officer or employee, as defined 17681

in section 109.36 of the Revised Code, that alleges that the 17682
officer's or employee's conduct was manifestly outside the scope 17683
of the officer's or employee's employment or official 17684
responsibilities, or that the officer or employee acted with 17685
malicious purpose, in bad faith, or in a wanton or reckless manner 17686
shall first be filed against the state in the court of claims, 17687
~~which that~~ has exclusive, original jurisdiction to determine, 17688
initially, whether the officer or employee is entitled to personal 17689
immunity under section 9.86 of the Revised Code and whether the 17690
courts of common pleas have jurisdiction over the civil action. 17691
The officer or employee may participate in the immunity 17692
determination proceeding before the court of claims to determine 17693
whether the officer or employee is entitled to personal immunity 17694
under section 9.86 of the Revised Code. 17695

The filing of a claim against an officer or employee under 17696
this division tolls the running of the applicable statute of 17697
limitations until the court of claims determines whether the 17698
officer or employee is entitled to personal immunity under section 17699
9.86 of the Revised Code. 17700

(G) ~~Whenever~~ If a claim lies against an officer or employee 17701
who is a member of the Ohio national guard, and the officer or 17702
employee was, at the time of the act or omission complained of, 17703
subject to the "Federal Tort Claims Act," 60 Stat. 842 (1946), 28 17704
U.S.C. 2671, et seq., ~~then~~ the Federal Tort Claims Act is the 17705
exclusive remedy of the claimant and the state has no liability 17706
under this section. 17707

(H) If an inmate of a state correctional institution has a 17708
claim against the state for the loss of or damage to property and 17709
the amount claimed does not exceed three hundred dollars, before 17710
commencing an action against the state in the court of claims, the 17711
inmate shall file a claim for the loss or damage under the rules 17712
adopted by the director of rehabilitation and correction pursuant 17713

to this division. The inmate shall file the claim within the time 17714
allowed for commencement of a civil action under section 2743.16 17715
of the Revised Code. If the state admits or compromises the claim, 17716
the director shall make payment from a fund designated by the 17717
director for that purpose. If the state denies the claim or does 17718
not compromise the claim at least sixty days prior to expiration 17719
of the time allowed for commencement of a civil action based upon 17720
the loss or damage under section 2743.16 of the Revised Code, the 17721
inmate may commence an action in the court of claims under this 17722
chapter to recover damages for the loss or damage. 17723

The director of rehabilitation and correction shall adopt 17724
rules pursuant to Chapter 119. of the Revised Code to implement 17725
this division. 17726

Sec. 2743.021. (A) As used in this section and section 17727
2743.022 of the Revised Code: 17728

(1)(a) "Governmental function" means a function of the 17729
department of transportation that is specified in division 17730
(A)(1)(b) of this section or that satisfies any of the following: 17731

(i) A function that is imposed upon the state as an 17732
obligation of sovereignty and is performed by the department of 17733
transportation voluntarily or pursuant to legislative requirement; 17734

(ii) A function that is for the common good of all citizens 17735
of the state; 17736

(iii) A function that promotes or preserves the public peace, 17737
health, safety, or welfare and that involves activities that are 17738
not engaged in or not customarily engaged in by nongovernmental 17739
persons. 17740

(b) "Governmental function" includes, but is not limited to, 17741
the following functions insofar as they are within the 17742
jurisdiction of the department of transportation: 17743

<u>(i) The provision or nonprovision of roadway services;</u>	17744
<u>(ii) The regulation of the use of, and the design,</u>	17745
<u>construction, reconstruction, repair, renovation, and maintenance</u>	17746
<u>of roads, highways, streets, avenues, alleys, sidewalks, bridges,</u>	17747
<u>culverts, aqueducts, viaducts, and public grounds;</u>	17748
<u>(iii) Quasi-judicial, prosecutorial, and quasi-legislative</u>	17749
<u>functions, including, but not limited to, permitting functions;</u>	17750
<u>(iv) The design, construction, reconstruction, repair,</u>	17751
<u>renovation, maintenance, and operation of buildings that are used</u>	17752
<u>in connection with the performance of a governmental function,</u>	17753
<u>including, but not limited to, office buildings, garage</u>	17754
<u>facilities, and rest areas;</u>	17755
<u>(v) The enforcement or nonperformance of any law;</u>	17756
<u>(vi) The regulation of traffic and the erection or</u>	17757
<u>nonerection of traffic signs, signals, or control devices;</u>	17758
<u>(vii) The collection and disposal of solid wastes, as defined</u>	17759
<u>in section 3734.01 of the Revised Code;</u>	17760
<u>(viii) The provision or nonprovision, planning or design,</u>	17761
<u>construction, or reconstruction of a public improvement,</u>	17762
<u>including, but not limited to, a sewer system;</u>	17763
<u>(ix) The provision or nonprovision of inspection services of</u>	17764
<u>all types, including, but not limited to, inspections in</u>	17765
<u>connection with building, zoning, sanitation, fire, plumbing, and</u>	17766
<u>electrical codes, and the taking of actions in connection with</u>	17767
<u>those types of codes, including, but not limited to, the approval</u>	17768
<u>of plans for the construction of buildings or structures and the</u>	17769
<u>issuance or revocation of building permits or stop work orders in</u>	17770
<u>connection with buildings or structures;</u>	17771
<u>(x) Flood control measures;</u>	17772
<u>(xi) The issuance of revenue obligations;</u>	17773

(xii) The design, construction, reconstruction, renovation, repair, maintenance, and operation of any recreational area or facility incident to a highway improvement; 17774
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(xiii) A function that the general assembly requires the department of transportation to perform, including, but not limited to, any duties, powers, and functions that are conferred by law on the department of transportation or the director, the assistant directors, the deputy directors, or the divisions of the department under Title LV of the Revised Code. 17777
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(2) "Proprietary function" means a function of the department of transportation that satisfies both of the following: 17783
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(a) The function is not one described in division (A)(1)(a)(i) or (ii) of this section and is not one specified in division (A)(1)(b) of this section; 17785
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(b) The function is one that promotes or preserves the public peace, health, safety, or welfare and that involves activities that are customarily engaged in by nongovernmental persons. 17788
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(B)(1) Notwithstanding any provision in this chapter, the liability of the department of transportation for damages in a civil action for injury, death, or loss to person or property allegedly caused by any act or omission of the department of transportation or of any of its officers or employees in connection with a governmental or proprietary function shall be determined in accordance with this section and section 2743.022 of the Revised Code. 17791
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(2) Except as provided in division (C) of this section, the department of transportation is not liable in damages in a civil action for injury, death, or loss to person or property allegedly caused by any act or omission of the department of transportation or of any of its officers or employees in connection with a governmental or proprietary function. 17799
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(C) Subject to section 2743.022 of the Revised Code, the 17805
department of transportation is liable in damages in a civil 17806
action for injury, death, or loss to person or property shown to 17807
be caused by a preponderance of the evidence by any act or 17808
omission of the department of transportation or of any of its 17809
officers or employees in connection with a governmental or 17810
proprietary function, as follows: 17811

(1) The department of transportation is liable for injury, 17812
death, or loss to person or property caused by the negligent 17813
operation of any motor vehicle by any of its officers or employees 17814
while the officer or employee is engaged within the officer's or 17815
employee's scope of employment and authority. 17816

(2) The department of transportation is liable for injury, 17817
death, or loss to person or property caused by the negligent 17818
performance of acts by any of its officers or employees with 17819
respect to proprietary functions of the department of 17820
transportation. 17821

(3)(a) The department of transportation is liable for injury, 17822
death, or loss to person or property caused by its negligent 17823
failure to keep roads or highways under the jurisdiction of the 17824
department in repair and other negligent failure to remove 17825
obstructions from roads or highways under the jurisdiction of the 17826
department. 17827

(b) As used in division (C)(3)(a) of this section, "road" and 17828
"highway" have the same meanings as in section 5501.01 of the 17829
Revised Code but do not include berms, shoulders, rights-of-way, 17830
or traffic control devices unless the traffic control devices are 17831
mandated by the Ohio manual of uniform traffic control devices. 17832

(4) The department of transportation is liable for injury, 17833
death, or loss to person or property that is caused by the 17834
negligence of any of its officers or employees and that occurs 17835

within or on the grounds of, and is due to patent physical defects 17836
within or on the grounds of, buildings that are used in connection 17837
with the performance of a governmental function of the department 17838
of transportation. 17839

(5) In addition to the circumstances described in divisions 17840
(C)(1) to (4) of this section, the department of transportation is 17841
liable for injury, death, or loss to person or property when civil 17842
liability is expressly imposed upon the department of 17843
transportation by a section of the Revised Code. Civil liability 17844
shall not be construed to exist under another section of the 17845
Revised Code merely because that section imposes a responsibility 17846
or mandatory duty upon the department of transportation, because 17847
that section provides for a criminal penalty, because of a general 17848
authorization in that section that the department of 17849
transportation may sue and be sued, or because that section uses 17850
the term "shall" in a provision pertaining to the department of 17851
transportation. 17852

Sec. 2743.022. (A) In a civil action brought against the 17853
department of transportation or an officer or employee of the 17854
department to recover damages for injury, death, or loss to person 17855
or property allegedly caused by any act or omission in connection 17856
with a governmental or proprietary function, the following 17857
defenses or immunities may be asserted to establish nonliability: 17858

(1) The department is immune from liability if the officer or 17859
employee involved was engaged in the performance of a 17860
quasi-judicial, prosecutorial, or quasi-legislative function. 17861

(2) The department is immune from liability if the conduct of 17862
the officer or employee involved, other than negligent conduct, 17863
that gave rise to the claim of liability was required by law or 17864
authorized by law, or if the conduct of the officer or employee 17865
involved that gave rise to the claim of liability was necessary or 17866

essential to the exercise of the powers of the department or the officer or employee. 17867
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(3) The department is immune from liability if the action or failure to act by the officer or employee involved that gave rise to the claim of liability was within the discretion of the officer or employee with respect to policy-making, planning, or enforcement powers by virtue of the duties and responsibilities of the office or position of the officer or employee. 17869
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(4) The department is immune from liability if the injury, death, or loss to person or property resulted from the exercise of judgment or discretion in determining whether to acquire, or how to use, equipment, supplies, materials, personnel, facilities, and other resources unless the judgment or discretion was exercised with malicious purpose, in bad faith, or in a wanton or reckless manner. 17875
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(5) The officer or employee of the department of transportation is immune from liability unless one of the following applies: 17882
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(a) The officer's or employee's acts or omissions were manifestly outside the scope of the officer's or employee's employment or official responsibilities. 17885
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(b) The officer's or employee's acts or omissions were with malicious purpose, in bad faith, or in a wanton or reckless manner. 17888
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(c) Civil liability is expressly imposed upon the officer or employee by a section of the Revised Code. Civil liability shall not be construed to exist under another section of the Revised Code merely because that section imposes a responsibility or mandatory duty upon an officer or employee, because that section provides for a criminal penalty, because of a general authorization in that section that an officer or employee may sue 17891
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and be sued, or because the section uses the term "shall" in a 17898
provision pertaining to an officer or employee. 17899

(B) Any immunity or defense conferred upon an officer or 17900
employee of the department of transportation by division (A)(5) of 17901
this section does not affect or limit any liability of the 17902
department of transportation for an act or omission of the officer 17903
or employee as provided in section 2743.021 of the Revised Code. 17904

(C) An order that denies the department of transportation or 17905
an officer or employee of the department the benefit of an alleged 17906
immunity from liability as provided in this section or any other 17907
provision of the law is a final order. 17908

Sec. 2743.09. The clerk of the court of claims shall do all 17909
of the following: 17910

(A) Administer oaths and take and certify affidavits, 17911
depositions, and acknowledgments of powers of attorney and other 17912
instruments in writing; 17913

(B) Prepare the dockets, enter and record the orders, 17914
judgments, decisions, awards, and proceedings of the court of 17915
claims and the court of claims commissioners, and issue writs and 17916
process; 17917

(C) Maintain an office in Franklin county in rooms provided 17918
by the supreme court for that purpose; 17919

(D) Keep an appearance docket of civil actions, claims for an 17920
award of reparations, and appeals from decisions of the court of 17921
claims commissioners. The clerk may refuse to accept for filing 17922
any pleading or paper that relates to a civil action in the court 17923
of claims and that is submitted for filing by a person who has 17924
been found to be a vexatious litigator under section 2323.52 of 17925
the Revised Code and who has failed to obtain leave to proceed 17926
under that section. 17927

Upon the commencement of an action or claim, the clerk shall 17928
assign it a number. This number shall be placed on the first page, 17929
and every continuation page, of the appearance docket that 17930
concerns the particular action or claim. In addition, this number 17931
and the names of the parties shall be placed on the case file, and 17932
every paper filed in the action or claim. 17933

At the time the action is commenced the clerk shall enter in 17934
the appearance docket the names of the parties in full and the 17935
names of counsel and shall index the action alphabetically by the 17936
last name of each party. Thereafter, the clerk shall 17937
chronologically note in the appearance docket all process issued 17938
and returns, pleas, motions, papers filed in the action, orders, 17939
verdicts, and judgments. The notations shall be brief but shall 17940
show the date of filing, substance, and journal volume and page of 17941
each order, verdict, and judgment. An action is commenced for 17942
purposes of this division by the filing of a complaint, including 17943
a form complaint under section 2743.10 of the Revised Code or a 17944
petition for removal. 17945

At the time an appeal for an award of reparations is 17946
commenced, the clerk shall enter the full names of the claimant, 17947
the victim, and the attorneys in the appearance docket and shall 17948
index the claim alphabetically by the last name of the claimant 17949
and the victim. Thereafter, the clerk shall chronologically note 17950
in the appearance docket all process issued and returns, motions, 17951
papers filed in the claim, orders, decisions, and awards. The 17952
notations shall be brief but shall show the date of filing, 17953
substance, and journal volume and page of each order. 17954

(E) Keep all original papers filed in an action or claim in a 17955
separate file folder and a journal in which all orders, verdicts, 17956
and judgments of the court and commissioners shall be recorded; 17957

(F) Charge and collect fees pursuant to section 2303.20 of 17958
the Revised Code, keep a cashbook in which the clerk shall enter 17959

the amounts received, make a report to the clerk of the supreme court each quarter of the fees received during the preceding quarter, and pay them monthly into the state treasury;

(G) Appoint ~~stenographers, shorthand~~ reporters, and other clerical personnel;

(H) Under the direction of the chief justice, establish procedures for hearing and determining appeals for an award of reparations pursuant to sections 2743.51 to 2743.72 of the Revised Code.

Sec. 2743.10. (A) Civil actions against the state for ~~two~~ ten thousand ~~five hundred~~ dollars or less shall be determined administratively by the clerk of the court of claims, except that the clerk is not required to administratively determine a civil action of that nature if the civil action was commenced by a person who has been found to be a vexatious litigator under section 2323.52 of the Revised Code and who has failed to obtain leave to proceed under that section and if the clerk refused pursuant to division (D) of section 2743.09 of the Revised Code to accept for filing any pleading or paper that relates to the civil action and that was submitted for filing by that person and except that all civil actions against the state that have been removed to the court of claims shall be heard and determined by a judge of the court of claims.

(B) Civil actions covered by division (A) of this section shall be commenced by filing with the clerk on complaint forms prescribed by the supreme court. The clerk shall forward copies of the form complaint to the attorney general and the state department, board, office, commission, agency, institution, or other instrumentality whose actions or failure to act are the subject of complaint. The latter shall investigate the allegations made in the form complaint and report the results of its

investigation to the clerk within sixty days of receipt of a copy 17991
of the form complaint. The clerk shall forward a copy of the 17992
report to the claimant and give the claimant an opportunity to 17993
respond to the report either in writing or by appearing before the 17994
clerk. 17995

(C) The clerk shall determine the civil action covered by 17996
division (A) of this section and make a report of the decision, 17997
together with findings of fact and conclusions of law, copies of 17998
which shall be mailed to the claimant and the state 17999
instrumentality. Except as otherwise provided in this division, 18000
the determination shall be based upon principles of law applicable 18001
in the court of claims, including, but not limited to, section 18002
3345.40 of the Revised Code if a state university or college is a 18003
defendant in the court of claims. 18004

Rules of evidence shall not be applicable in the 18005
determination. Procedures shall be governed by rules promulgated 18006
by the clerk, shall be informal, and shall be designed to 18007
accommodate persons who are not skilled in the law. 18008

(D) Upon the motion of a party, the court of claims shall 18009
review the determination of the clerk upon the clerk's report and 18010
papers filed in the action and shall enter judgment consistent 18011
with its findings. The judgment shall not be the subject of 18012
further appeal. No civil action arising out of the same 18013
transaction or set of facts may be commenced by the claimant in 18014
the court of claims. 18015

(E) The determination of the clerk pursuant to division (C) 18016
of this section shall be processed pursuant to section 2743.19 of 18017
the Revised Code as if it were a judgment. 18018

Sec. 2743.48. (A) As used in this section and section 2743.49 18019
of the Revised Code, a "wrongfully imprisoned individual" means an 18020
individual who satisfies each of the following: 18021

(1) The individual was charged with a violation of a section 18022
of the Revised Code by an indictment or information ~~prior to, or~~ 18023
~~on or after, September 24, 1986,~~ and the violation charged was an 18024
aggravated felony or felony. 18025

(2) The individual was found guilty of, ~~but did not plead~~ 18026
~~guilty to,~~ the particular charge or a lesser-included offense by 18027
the court or jury involved, the offender did not plead guilty to 18028
the particular charge or a lesser-included offense, whether or not 18029
the guilty plea was accepted or invalidated by the court, and the 18030
offense of which the individual was found guilty was an aggravated 18031
felony or felony. 18032

(3) The individual was sentenced to an indefinite or definite 18033
term of imprisonment in a state correctional institution for the 18034
offense of which the individual was found guilty. 18035

(4) The individual's conviction was vacated or was dismissed, 18036
or reversed on appeal, the prosecuting attorney in the case cannot 18037
or will not seek any further appeal of right or upon leave of 18038
court, and no criminal proceeding is pending, can be brought, or 18039
will be brought by any prosecuting attorney, city director of law, 18040
village solicitor, or other chief legal officer of a municipal 18041
corporation against the individual for any act associated with 18042
that conviction. 18043

(5) Subsequent to sentencing and during or subsequent to 18044
imprisonment, ~~an error in procedure resulted in the individual's~~ 18045
~~release, or~~ it was determined by a the court of common pleas 18046
associated with the individual's conviction that the offense ~~of~~ 18047
~~which the individual was found guilty,~~ including all 18048
lesser-included offenses, either was not committed by the 18049
individual or was not committed by any person. 18050

(B)(1) ~~When a~~ A person may file a civil action to be declared 18051
a wrongfully imprisoned individual in the court of common pleas 18052

associated with the person's conviction. That civil action shall 18053
be separate from the underlying finding of guilt by that court of 18054
common pleas. There is no right to a jury trial in that action. 18055
The prosecuting attorney of that county shall be served with a 18056
copy of the complaint and shall defend all civil actions to 18057
determine a person to be a wrongfully imprisoned individual under 18058
this section. Upon the filing of a civil action to be determined a 18059
wrongfully imprisoned individual, the attorney general shall also 18060
be served with a copy of the complaint and shall be heard. 18061

(2) Before a person may be determined to be a wrongfully 18062
imprisoned individual, the person shall prove to the court of 18063
common pleas associated with the person's conviction that at the 18064
time of the offense the person was not engaging in any other 18065
criminal conduct arising out of that offense. 18066

(3) When the court of common pleas associated with the 18067
person's conviction determines, on or after September 24, 1986, in 18068
a separate civil action that a person is a wrongfully imprisoned 18069
individual, the court shall provide the person with a copy of this 18070
section and orally inform the person and the person's attorney of 18071
the person's rights under this section to commence a civil action 18072
against the state in the court of claims because of the person's 18073
wrongful imprisonment and to be represented in that civil action 18074
by counsel of the person's own choice. 18075

~~(2)~~(4) The court described in division (B)~~(1)~~(3) of this 18076
section shall notify the clerk of the court of claims, in writing 18077
and within seven days after the date of the entry of its 18078
determination that the person is a wrongfully imprisoned 18079
individual, of the name and proposed mailing address of the person 18080
and of the fact that the person has the rights to commence a civil 18081
action and to have legal representation as provided in this 18082
section. The clerk of the court of claims shall maintain in the 18083
clerk's office a list of wrongfully imprisoned individuals for 18084

whom notices are received under this section and shall create 18085
files in the clerk's office for each such individual. 18086

~~(3)~~(5) Within sixty days after the date of the ~~entry of a~~ 18087
~~court of common plea's determination that a person is a wrongfully~~ 18088
~~imprisoned individual~~ filing of the complaint for damages in the 18089
court of claims and the finding by the court of claims of the 18090
number of days of wrongful imprisonment in a state correctional 18091
institution, the clerk of the court of claims shall forward a 18092
preliminary judgment to the president of the controlling board 18093
requesting the payment of fifty per cent of the amount described 18094
in division (E)(2)(b) of this section to the wrongfully imprisoned 18095
individual. The board shall take all actions necessary to cause 18096
the payment of that amount out of the emergency purposes special 18097
purpose account of the board. 18098

(6) If an individual was serving at the time of the wrongful 18099
imprisonment concurrent sentences on other convictions that were 18100
not vacated, dismissed, or reversed on appeal, the individual is 18101
not eligible for compensation as described in this section for any 18102
portion of that wrongful imprisonment that occurred during a 18103
concurrent sentence of that nature. 18104

~~(C)(1) In a civil action under this section, a wrongfully~~ 18105
~~imprisoned individual has the right to have counsel of the~~ 18106
~~individual's own choice.~~ 18107

~~(2)~~ If a wrongfully imprisoned individual who is the subject 18108
of a court determination as described in division (B)~~(1)~~(3) of 18109
this section does not commence a civil action under this section 18110
within six months after the entry of that determination, the clerk 18111
of the court of claims shall send a letter to the wrongfully 18112
imprisoned individual, at the address set forth in the notice 18113
received from the court of common pleas pursuant to division 18114
(B)~~(2)~~(4) of this section or to any later address provided by the 18115
wrongfully imprisoned individual, that reminds the wrongfully 18116

imprisoned individual of the wrongfully imprisoned individual's 18117
rights under this section. Until the statute of limitations 18118
provided in division (H) of this section expires and unless the 18119
wrongfully imprisoned individual commences a civil action under 18120
this section, the clerk of the court of claims shall send a 18121
similar letter in a similar manner to the wrongfully imprisoned 18122
individual at least once each three months after the sending of 18123
the first reminder. 18124

(D) Notwithstanding any provisions of this chapter to the 18125
contrary, a wrongfully imprisoned individual has and may file a 18126
civil action against the state, in the court of claims, to recover 18127
a sum of money as described in this section, because of the 18128
individual's wrongful imprisonment. The court of claims shall have 18129
exclusive, original jurisdiction over such a civil action. The 18130
civil action shall proceed, be heard, and be determined as 18131
provided in sections 2743.01 to 2743.20 of the Revised Code, 18132
except that if a provision of this section conflicts with a 18133
provision in any of those sections, the provision in this section 18134
controls. 18135

(E)(1) In a civil action as described in division (D) of this 18136
section, the complainant may establish that the claimant is a 18137
wrongfully imprisoned individual by submitting to the court of 18138
claims a certified copy of the judgment entry of the court of 18139
common pleas associated with the claimant's conviction and 18140
sentencing, and a certified copy of the entry of the determination 18141
of a that court of common pleas that the claimant is a wrongfully 18142
imprisoned individual. No other evidence shall be required of the 18143
complainant to establish that the claimant is a wrongfully 18144
imprisoned individual, and the claimant shall be ~~irrebuttably~~ 18145
rebuttably presumed to be a wrongfully imprisoned individual 18146
absent a violation of any provision of this section or of section 18147
2305.02 of the Revised Code. 18148

(2) In a civil action as described in division (D) of this section, upon presentation of requisite proof to the court of claims, a wrongfully imprisoned individual is entitled to receive a sum of money that equals the total of each of the following amounts:

(a) The amount of any fine or court costs imposed and paid, and the reasonable attorney's fees and other expenses incurred by the wrongfully imprisoned individual in connection with all associated criminal proceedings and appeals, and, if applicable, in connection with obtaining the wrongfully imprisoned individual's discharge from confinement in the state correctional institution;

(b) For each full year of imprisonment in the state correctional institution for the offense of which the wrongfully imprisoned individual was found guilty, forty thousand three hundred thirty dollars or the adjusted amount determined by the auditor of state pursuant to section 2743.49 of the Revised Code, and for each part of a year of being so imprisoned, a pro-rated share of forty thousand three hundred thirty dollars or the adjusted amount determined by the auditor of state pursuant to section 2743.49 of the Revised Code;

(c) Any loss of wages, salary, or other earned income that directly resulted from the wrongfully imprisoned individual's arrest, prosecution, conviction, and wrongful imprisonment;

(d) The amount of the following cost debts the department of rehabilitation and correction recovered from the wrongfully imprisoned individual who was in custody of the department or under the department's supervision:

(i) Any user fee or copayment for services at a detention facility, including, but not limited to, a fee or copayment for sick call visits;

(ii) The cost of housing and feeding the wrongfully imprisoned individual in a detention facility; 18180
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(iii) The cost of supervision of the wrongfully imprisoned individual; 18182
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(iv) The cost of any ancillary services provided to the wrongfully imprisoned individual. 18184
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(3) The court of claims shall deduct any known debts owed by the wrongfully imprisoned individual to the state as described in division (A) of section 2743.01 of the Revised Code or a political subdivision under division (B) of section 2743.01 of the Revised Code from the sum of money described in division (E)(2) of this section, and those deducted amounts shall be paid to the state or political subdivision, whichever is applicable. 18186
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(F)(1) If the court of claims determines in a civil action as described in division (D) of this section that the complainant is a wrongfully imprisoned individual, it shall enter judgment for the wrongfully imprisoned individual in the amount of the sum of money to which the wrongfully imprisoned individual is entitled under division (E)(2) of this section. In determining that sum, the court of claims shall not take into consideration any expenses incurred by the state or any of its political subdivisions in connection with the arrest, prosecution, and imprisonment of the wrongfully imprisoned individual, including, but not limited to, expenses for food, clothing, shelter, and medical services. The court shall reduce that sum by the amount of the payment to the wrongfully imprisoned individual described in ~~division~~ divisions (B)~~(3)~~(5) and (E)(3) of this section. 18193
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~~(2) If the wrongfully imprisoned individual was represented in the civil action under this section by counsel of the wrongfully imprisoned individual's own choice, the~~ The clerk of ~~the~~ court of claims shall include in the judgment entry referred 18207
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to in division (F)(1) of this section an award for the payment of 18211
the court costs, transcripts, expert witness fees, and other 18212
reasonable attorney's fees of that counsel out-of-pocket 18213
litigation expenses related to the civil action described in 18214
division (D) of this section. These fees shall be paid as provided 18215
in division (G) of this section. 18216

(3) The state consents to be sued by a wrongfully imprisoned 18217
individual because the imprisonment was wrongful, and to liability 18218
on its part because of that fact, only as provided in this 18219
section. However, this section does not affect any liability of 18220
the state or of its employees to a wrongfully imprisoned 18221
individual on a claim for relief that is not based on the fact of 18222
the wrongful imprisonment, including, but not limited to, a claim 18223
for relief that arises out of circumstances occurring during the 18224
wrongfully imprisoned individual's confinement in the state 18225
correctional institution. 18226

(G) The clerk of the court of claims shall forward a 18227
certified copy of a judgment under division (F) of this section to 18228
the president of the controlling board. The board shall take all 18229
actions necessary to cause the payment of the judgment out of the 18230
emergency purposes special purpose account of the board. 18231

(H) To be eligible to recover a sum of money as described in 18232
this section because of wrongful imprisonment, a all of the 18233
following shall apply to a wrongfully imprisoned individual: 18234

(1) The wrongfully imprisoned individual shall not have been, 18235
prior to September 24, 1986, the subject of an act of the general 18236
assembly that authorized an award of compensation for the wrongful 18237
imprisonment or have been the subject of an action before the 18238
former sundry claims board that resulted in an award of 18239
compensation for the wrongful imprisonment. ~~Additionally, to be~~ 18240
~~eligible to so recover, the~~ 18241

(2) The wrongfully imprisoned individual shall commence a 18242
civil action under this section in the court of claims no later 18243
than two years after the date of the entry of the determination of 18244
a the court of common pleas associated with the individual's 18245
conviction that the individual is a wrongfully imprisoned 18246
individual. 18247

(3) The wrongfully imprisoned individual shall not have been 18248
convicted of a felony, other than the felony that is the subject 18249
of the action under this section, or a misdemeanor offense of 18250
violence within ten years prior to the filing of the civil action 18251
to be determined to be a wrongfully imprisoned individual by the 18252
court of common pleas associated with the individual's conviction 18253
or be convicted of a felony during the pendency of that action or 18254
the action in the court of claims under this section. 18255

Sec. 2746.01. A court of record of this state shall tax as 18256
costs or otherwise require the payment of fees for the following 18257
services rendered or as compensation for the following persons or 18258
any other of the following fees that are applicable in a 18259
particular case: 18260

(A) Appraisers, commissioners, or arbitrators appointed to 18261
make or procure an appraisal or valuation of any property, as 18262
provided in section 2335.02 of the Revised Code; 18263

(B) Auctioneers appointed to conduct any public auction of 18264
goods, chattels, or lands required to be sold by an officer of the 18265
court, as provided in section 2335.021 of the Revised Code; 18266

(C) Commissioners appointed to make partition of lands or to 18267
assign dower and appraisers of real or personal property on 18268
execution, replevin, or attachment or to fix the value of exempt 18269
property, as provided in section 2335.01 of the Revised Code; 18270

(D) Deposit of rent with the clerk of court by a resident of 18271

a manufactured home park, as provided in section 3733.121 <u>4781.42</u>	18272
of the Revised Code, or by a tenant of residential premises, as	18273
provided in section 5321.08 of the Revised Code;	18274
(E) Interpreters, as provided in section 2335.09 of the	18275
Revised Code;	18276
(F) Fees in a civil action or appeal commenced by an inmate	18277
against a government entity or employee, as provided in section	18278
2969.22 of the Revised Code;	18279
(G) Procurement of a transcript of a judgment or proceeding	18280
or exemplification of a record in an appeal or other civil action,	18281
as provided in section 2303.21 of the Revised Code;	18282
(H) Publication of an advertisement, notice, or proclamation	18283
required to be published by a trustee, assignee, executor,	18284
administrator, receiver, or other officer of the court or a party	18285
in a case or proceeding, as provided in section 7.13 of the	18286
Revised Code;	18287
(I) Publication of calendars, motion dockets, legal	18288
advertisements, and notices, the fees for which are not fixed by	18289
law, as provided in section 2701.09 of the Revised Code;	18290
(J) Sheriffs, as provided in section 311.17 of the Revised	18291
Code;	18292
(K) Township constables or members of the police force of a	18293
township police district or joint police district, as provided in	18294
section 509.15 of the Revised Code;	18295
(L) Witnesses, as follows:	18296
(1) Fees and mileage in civil cases, as provided in section	18297
2335.06 of the Revised Code;	18298
(2) Fees and mileage in criminal cases, as provided in	18299
section 2335.08 of the Revised Code;	18300
(3) Fees in all cases or proceedings not specified in	18301

sections 2335.06 and 2335.08 of the Revised Code, as provided in	18302
section 2335.05 of the Revised Code;	18303
(4) Fees of municipal police officers in state felony cases,	18304
as provided in section 2335.17 of the Revised Code;	18305
(5) Fees in arbitration proceedings, as provided in section	18306
2711.06 of the Revised Code.	18307
(M) In an action to abate a nuisance or to enforce a local	18308
code relating to buildings, the expenses of operating and	18309
conserving the building, as provided in section 3767.41 of the	18310
Revised Code.	18311
Sec. 2746.03. In addition to any applicable fees or costs set	18312
forth in sections 2746.01 and 2746.02 of the Revised Code or any	18313
other applicable provision of law, the supreme court, a court of	18314
appeals, or the court of claims shall tax as costs or otherwise	18315
require the payment of fees for the following services rendered or	18316
as compensation for the following persons or any other of the	18317
following fees that are applicable in a particular case:	18318
(A) In the supreme court, filing fees, as provided in section	18319
2503.17 of the Revised Code;	18320
(B) In a court of appeals:	18321
(1) Fees collectible by the clerk of a court of common pleas	18322
when acting as the clerk of the court of appeals of the county, as	18323
provided in section 2303.03 of the Revised Code;	18324
(2) Additional filing fees or charges for special projects,	18325
programs, or services, as provided in section 2501.16 of the	18326
Revised Code;	18327
(3) Sheriffs or other officers who serve process, as provided	18328
in section 2501.19 of the Revised Code;	18329
(4) Sheriff reporters <u>Reporters</u> , as provided in section	18330

2501.17 of the Revised Code;	18331
(5) The expense of preparing and transcribing the record in an appeal to the tenth district court of appeals from a ruling of the director of health under the certificate of need program, as provided in section 3702.60 of the Revised Code.	18332 18333 18334 18335
(C) In the court of claims:	18336
(1) The fees provided for in section 2743.09 of the Revised Code;	18337 18338
(2) Witness fees and mileage, as provided in section 2743.06 of the Revised Code.	18339 18340
Sec. 2746.04. In addition to any applicable fees or costs set forth in sections 2746.01 and 2746.02 of the Revised Code or any other applicable provision of law, a court of common pleas shall tax as costs or otherwise require the payment of fees for the following services rendered or as compensation for the following persons or any other of the following fees that are applicable in a particular case:	18341 18342 18343 18344 18345 18346 18347
(A) The fees provided for in section 2303.20 of the Revised Code;	18348 18349
(B) Additional fees to computerize the court, make available computerized legal research services, computerize the office of the clerk of the court, provide financial assistance to legal aid societies, support the office of the state public defender, fund shelters for victims of domestic violence, and special projects of the court, as provided in section 2303.201 and, for a court that has a domestic relations division, section 2301.031 of the Revised Code;	18350 18351 18352 18353 18354 18355 18356 18357
(C) Filing for a divorce decree under section 3105.10 or a decree of dissolution under section 3105.65 of the Revised Code, as provided in section 3109.14 of the Revised Code;	18358 18359 18360

(D) Filing of a foreign judgment pursuant to section 2329.022	18361
of the Revised Code, as provided in section 2329.025 of the	18362
Revised Code;	18363
(E) Interpreters, as provided in section 2301.14 of the	18364
Revised Code;	18365
(F) Jurors in civil actions, as provided in section 2335.28	18366
of the Revised Code;	18367
(G) Shorthand reporters <u>Reporters</u> , as provided in sections	18368
2301.21 and 2301.24 of the Revised Code;	18369
(H) In a case involving the operation by a nonresident of a	18370
vessel upon the waters in this state, or the operation on the	18371
waters in this state of a vessel owned by a nonresident if	18372
operated with his consent, actual traveling expenses of the	18373
defendant, as provided in section 1547.36 of the Revised Code;	18374
(I) In a civil case, the expenses of taking a deposition of a	18375
person who is imprisoned in a workhouse, juvenile detention	18376
facility, jail, or state correctional institution within this	18377
state, or who is in the custody of the department of youth	18378
services, as provided in section 2317.06 of the Revised Code;	18379
(J) In proceedings relating to the examination of a judgment	18380
debtor under sections 2333.09 to 2333.27 of the Revised Code,	18381
compensation for clerks, sheriffs, referees, receivers, and	18382
witnesses, as provided in section 2333.27 of the Revised Code;	18383
(K) In an appeal from an order of an agency issued pursuant	18384
to an adjudication under section 119.12 of the Revised Code, the	18385
expense of preparing and transcribing the record;	18386
(L) In a case in which the court issues a protection order	18387
upon a petition alleging that the respondent engaged in domestic	18388
violence against a family or household member, the cost of	18389
supervision of the respondent's exercise of parenting time,	18390

visitation, or companionship rights, as provided in section 18391
3113.31 of the Revised Code; 18392

(M) Upon a petition to have a person involuntarily 18393
institutionalized, the costs of appointed counsel for the 18394
respondent at a full hearing, as provided in section 5123.76 of 18395
the Revised Code; 18396

(N) In a case before the domestic relations division of the 18397
Hamilton county court of common pleas, the expense of serving a 18398
summons, warrant, citation, subpoena, or other writ issued to an 18399
officer other than a bailiff, constable, or staff investigator of 18400
the division, as provided in section 2301.03 of the Revised Code. 18401

Sec. 2903.33. As used in sections 2903.33 to 2903.36 of the 18402
Revised Code: 18403

(A) "Care facility" means any of the following: 18404

(1) Any "home" as defined in section 3721.10 or 5111.20 of 18405
the Revised Code; 18406

(2) Any "residential facility" as defined in section 5123.19 18407
of the Revised Code; 18408

(3) Any institution or facility operated or provided by the 18409
department of mental health or by the department of developmental 18410
disabilities pursuant to sections 5119.02 and 5123.03 of the 18411
Revised Code; 18412

(4) Any "residential facility" as defined in section 5119.22 18413
of the Revised Code; 18414

(5) Any unit of any hospital, as defined in section 3701.01 18415
of the Revised Code, that provides the same services as a nursing 18416
home, as defined in section 3721.01 of the Revised Code; 18417

(6) Any institution, residence, or facility that provides, 18418
for a period of more than twenty-four hours, whether for a 18419

consideration or not, accommodations to one individual or two 18420
unrelated individuals who are dependent upon the services of 18421
others; 18422

~~(7) Any "adult care facility" as defined in section 5119.70~~ 18423
~~of the Revised Code;~~ 18424

~~(8)~~ Any adult foster home certified under section 5119.692 of 18425
the Revised Code. 18426

(B) "Abuse" means knowingly causing physical harm or 18427
recklessly causing serious physical harm to a person by physical 18428
contact with the person or by the inappropriate use of a physical 18429
or chemical restraint, medication, or isolation on the person. 18430

(C)(1) "Gross neglect" means knowingly failing to provide a 18431
person with any treatment, care, goods, or service that is 18432
necessary to maintain the health or safety of the person when the 18433
failure results in physical harm or serious physical harm to the 18434
person. 18435

(2) "Neglect" means recklessly failing to provide a person 18436
with any treatment, care, goods, or service that is necessary to 18437
maintain the health or safety of the person when the failure 18438
results in serious physical harm to the person. 18439

(D) "Inappropriate use of a physical or chemical restraint, 18440
medication, or isolation" means the use of physical or chemical 18441
restraint, medication, or isolation as punishment, for staff 18442
convenience, excessively, as a substitute for treatment, or in 18443
quantities that preclude habilitation and treatment. 18444

Sec. 2907.29. Every hospital of this state that offers 18445
organized emergency services shall provide that a physician, a 18446
physician assistant, a clinical nurse specialist, a certified 18447
nurse practitioner, or a certified nurse-midwife is available on 18448
call twenty-four hours each day for the examination of persons 18449

reported to any law enforcement agency to be victims of sexual 18450
offenses cognizable as violations of any provision of sections 18451
2907.02 to 2907.06 of the Revised Code. The physician, physician 18452
assistant, clinical nurse specialist, certified nurse 18453
practitioner, or certified nurse-midwife, upon the request of any 18454
peace officer or prosecuting attorney and with the consent of the 18455
reported victim or upon the request of the reported victim, shall 18456
examine the person for the purposes of gathering physical evidence 18457
and shall complete any written documentation of the physical 18458
examination. The ~~public~~ director of health council shall establish 18459
procedures for gathering evidence under this section. 18460

Each reported victim shall be informed of available venereal 18461
disease, pregnancy, medical, and psychiatric services. 18462

Notwithstanding any other provision of law, a minor may 18463
consent to examination under this section. The consent is not 18464
subject to disaffirmance because of minority, and consent of the 18465
parent, parents, or guardian of the minor is not required for an 18466
examination under this section. However, the hospital shall give 18467
written notice to the parent, parents, or guardian of a minor that 18468
an examination under this section has taken place. The parent, 18469
parents, or guardian of a minor giving consent under this section 18470
are not liable for payment for any services provided under this 18471
section without their consent. 18472

Sec. 2909.21. As used in sections 2909.21 to ~~2909.34~~ 2909.31 18473
of the Revised Code: 18474

(A) "Act of terrorism" means an act that is committed within 18475
or outside the territorial jurisdiction of this state or the 18476
United States, that constitutes a specified offense if committed 18477
in this state or constitutes an offense in any jurisdiction within 18478
or outside the territorial jurisdiction of the United States 18479
containing all of the essential elements of a specified offense, 18480

and that is intended to do one or more of the following: 18481

(1) Intimidate or coerce a civilian population; 18482

(2) Influence the policy of any government by intimidation or coercion; 18483
18484

(3) Affect the conduct of any government by the act that constitutes the offense. 18485
18486

(B) "Biological agent," "delivery system," "toxin," and "vector" have the same meanings as in section 2917.33 of the Revised Code. 18487
18488
18489

(C) "Biological weapon" means any biological agent, toxin, vector, or delivery system or combination of any biological agent or agents, any toxin or toxins, any vector or vectors, and any delivery system or systems. 18490
18491
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18493

(D) "Chemical weapon" means any one or more of the following: 18494

(1) Any toxic chemical or precursor of a toxic chemical that is listed in Schedule 1, Schedule 2, or Schedule 3 of the international "Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC)," as entered into force on April 29, 1997; 18495
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(2) A device specifically designed to cause death or other harm through the toxic properties of a toxic chemical or precursor identified in division (D)(1) of this section that would be created or released as a result of the employment of that device; 18500
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18503

(3) Any equipment specifically designed for use directly in connection with the employment of devices identified in division (D)(2) of this section. 18504
18505
18506

(E) "Radiological or nuclear weapon" means any device that is designed to create or release radiation or radioactivity at a level that is dangerous to human life or in order to cause serious physical harm to persons as a result of the radiation or 18507
18508
18509
18510

radioactivity created or released. 18511

(F) "Explosive device" has the same meaning as in section 18512
2923.11 of the Revised Code. 18513

(G) "Key component of a binary or multicomponent chemical 18514
system" means the precursor that plays the most important role in 18515
determining the toxic properties of the final product and reacts 18516
rapidly with other chemicals in the binary or multicomponent 18517
chemical system. 18518

(H) ~~"Material assistance" means any of the following:~~ 18519

~~(1) Membership in an organization on the United States 18520
department of state terrorist exclusion list;~~ 18521

~~(2) Use of the person's position of prominence within any 18522
country to persuade others to support an organization on the 18523
United States department of state terrorist exclusion list;~~ 18524

~~(3) Knowingly soliciting funds or other things of value for 18525
an organization on the United States department of state terrorist 18526
exclusion list;~~ 18527

~~(4) Solicitation of any individual for membership in an 18528
organization on the United States department of state terrorist 18529
exclusion list;~~ 18530

~~(5) Commission of an act that the person knows, or reasonably 18531
should have known, affords material support or resources to an 18532
organization on the United States department of state terrorist 18533
exclusion list;~~ 18534

~~(6) Hiring or compensating a person known by the person 18535
hiring or providing the compensation to be a member of an 18536
organization on the United States department of state terrorist 18537
exclusion list or a person known by the person hiring or providing 18538
the compensation to be engaged in planning, assisting, or carrying 18539
out an act of terrorism.~~ 18540

~~(I)~~ "Material support or resources" means currency, payment 18541
instruments, other financial securities, funds, transfer of funds, 18542
financial services, communications, lodging, training, safe 18543
houses, false documentation or identification, communications 18544
equipment, facilities, weapons, lethal substances, explosives, 18545
personnel, transportation, and other physical assets, except 18546
medicine or religious materials. 18547

~~(J)~~(I) "Payment instrument" means a check, draft, money 18548
order, traveler's check, cashier's check, teller's check, or other 18549
instrument or order for the transmission or payment of money, 18550
regardless of whether the item in question is negotiable. 18551

~~(K)~~(J) "Peace officer" and "prosecutor" have the same 18552
meanings as in section 2935.01 of the Revised Code. 18553

~~(L)~~(K) "Precursor" means any chemical reactant that takes 18554
part at any stage in the production by whatever method of a toxic 18555
chemical, including any key component of a binary or 18556
multicomponent chemical system. 18557

~~(M)~~(L) "Response costs" means all costs a political 18558
subdivision incurs as a result of, or in making any response to, a 18559
threat of a specified offense made as described in section 2909.23 18560
of the Revised Code or a specified offense committed as described 18561
in section 2909.24 of the Revised Code, including, but not limited 18562
to, all costs so incurred by any law enforcement officers, 18563
firefighters, rescue personnel, or emergency medical services 18564
personnel of the political subdivision and all costs so incurred 18565
by the political subdivision that relate to laboratory testing or 18566
hazardous material cleanup. 18567

~~(N)~~(M) "Specified offense" means any of the following: 18568

(1) A felony offense of violence, a violation of section 18569
2909.04, 2909.081, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 18570
2909.28, 2909.29, or 2927.24 of the Revised Code, a felony of the 18571

first degree that is not a violation of any provision in Chapter 18572
2925. or 3719. of the Revised Code; 18573

(2) An attempt to commit, complicity in committing, or a 18574
conspiracy to commit an offense listed in division ~~(N)~~(M)(1) of 18575
this section. 18576

~~(O)~~(N) "Toxic chemical" means any chemical that through its 18577
chemical action on life processes can cause death or serious 18578
physical harm to persons or animals, regardless of its origin or 18579
of its method of production and regardless of whether it is 18580
produced in facilities, in munitions, or elsewhere. 18581

~~(P)~~ "United States department of state terrorist exclusion 18582
list" and "terrorist exclusion list" means the list compiled by 18583
the United States secretary of state, in consultation with or upon 18584
the request of the United States attorney general, that designates 18585
terrorist organizations for immigration purposes. "United States 18586
department of state terrorist exclusion list" and "terrorist 18587
exclusion list" also mean the list of terrorist organizations the 18588
director of public safety prepares pursuant to rules adopted in 18589
accordance with Chapter 119. of the Revised Code, that is 18590
comprised of lists of organizations officials of the United States 18591
government designate as terrorist, including the "terrorist 18592
exclusion list" described in this division, the list of "foreign 18593
terrorist organizations" the United States secretary of state 18594
prepares in consultation with the United States attorney general 18595
and the United States secretary of the treasury, and the list of 18596
charities that support terrorist activities, known as "designated 18597
charities," that the United States department of treasury 18598
compiles. 18599

~~(Q)~~(O) "Hazardous radioactive substance" means any substance 18600
or item that releases or is designed to release radiation or 18601
radioactivity at a level dangerous to human life. 18602

Sec. 2909.28. (A) No person, with the intent to manufacture a
chemical weapon, biological weapon, radiological or nuclear
weapon, or explosive device, shall knowingly assemble or possess
one or more toxins, toxic chemicals, precursors of toxic
chemicals, vectors, biological agents, or hazardous radioactive
substances, ~~including, but not limited to, those listed in rules~~
~~the director of public safety adopts,~~ that may be used to
manufacture a chemical weapon, biological weapon, radiological or
nuclear weapon, or explosive device.

(B) In a prosecution under this section, it is not necessary
to allege or prove that the offender assembled or possessed all
chemicals or substances necessary to manufacture a chemical
weapon, biological weapon, radiological or nuclear weapon, or
explosive device. The assembly or possession of a single chemical
or substance, with the intent to use that chemical or substance in
the manufacture of a chemical weapon, biological weapon,
radiological or nuclear weapon, or explosive device, is sufficient
to violate this section.

(C) Whoever violates this section is guilty of illegal
assembly or possession of chemicals or substances for the
manufacture of a chemical weapon, biological weapon, radiological
or nuclear weapon, or explosive device, which is a felony of the
fourth degree.

(D) This section does not apply when the items described in
division (A) of this section are assembled or possessed for a
purpose related to the performance of official duties related to
any military purpose of the United States and any law enforcement
purpose, including any domestic riot control purpose.

Sec. 2927.023. (A) As used in this section ~~"authorized:~~ 18631

(1) "Authorized recipient of tobacco products" means a person 18632

who is: 18633

+1+(a) Licensed as a cigarette wholesale dealer under section 18634
5743.15 of the Revised Code; 18635

+2+(b) Licensed as a retail dealer as long as the person 18636
purchases cigarettes with the appropriate tax stamp affixed; 18637

+3+(c) An export warehouse proprietor as defined in section 18638
5702 of the Internal Revenue Code; 18639

+4+(d) An operator of a customs bonded warehouse under 19 18640
U.S.C. 1311 or 19 U.S.C. 1555; 18641

+5+(e) An officer, employee, or agent of the federal 18642
government or of this state acting in the person's official 18643
capacity; 18644

+6+(f) A department, agency, instrumentality, or political 18645
subdivision of the federal government or of this state; 18646

+7+(g) A person having a consent for consumer shipment issued 18647
by the tax commissioner under section 5743.71 of the Revised Code. 18648

(2) "Motor carrier" has the same meaning as in section 18649
4923.01 of the Revised Code. 18650

The purpose of this section is to prevent the sale of 18651
cigarettes to minors and to ensure compliance with the Master 18652
Settlement Agreement, as defined in section 1346.01 of the Revised 18653
Code. 18654

(B)(1) No person shall cause to be shipped any cigarettes to 18655
any person in this state other than an authorized recipient of 18656
tobacco products. 18657

(2) No ~~common carrier, contract~~ motor carrier, or other 18658
person shall knowingly transport cigarettes to any person in this 18659
state that the carrier or other person reasonably believes is not 18660
an authorized recipient of tobacco products. If cigarettes are 18661
transported to a home or residence, it shall be presumed that the 18662

~~common carrier, contract~~ motor carrier, or other person knew that 18663
the person to whom the cigarettes were delivered was not an 18664
authorized recipient of tobacco products. 18665

(C) No person engaged in the business of selling cigarettes 18666
who ships or causes to be shipped cigarettes to any person in this 18667
state in any container or wrapping other than the original 18668
container or wrapping of the cigarettes shall fail to plainly and 18669
visibly mark the exterior of the container or wrapping in which 18670
the cigarettes are shipped with the words "cigarettes." 18671

(D) A court shall impose a fine of up to one thousand dollars 18672
for each violation of division (B)(1), (B)(2), or (C) of this 18673
section. 18674

Sec. 2929.01. As used in this chapter: 18675

(A)(1) "Alternative residential facility" means, subject to 18676
division (A)(2) of this section, any facility other than an 18677
offender's home or residence in which an offender is assigned to 18678
live and that satisfies all of the following criteria: 18679

(a) It provides programs through which the offender may seek 18680
or maintain employment or may receive education, training, 18681
treatment, or habilitation. 18682

(b) It has received the appropriate license or certificate 18683
for any specialized education, training, treatment, habilitation, 18684
or other service that it provides from the government agency that 18685
is responsible for licensing or certifying that type of education, 18686
training, treatment, habilitation, or service. 18687

(2) "Alternative residential facility" does not include a 18688
community-based correctional facility, jail, halfway house, or 18689
prison. 18690

(B) "Basic probation supervision" means a requirement that 18691
the offender maintain contact with a person appointed to supervise 18692

the offender in accordance with sanctions imposed by the court or 18693
imposed by the parole board pursuant to section 2967.28 of the 18694
Revised Code. "Basic probation supervision" includes basic parole 18695
supervision and basic post-release control supervision. 18696

(C) "Cocaine," "hashish," "L.S.D.," and "unit dose" have the 18697
same meanings as in section 2925.01 of the Revised Code. 18698

(D) "Community-based correctional facility" means a 18699
community-based correctional facility and program or district 18700
community-based correctional facility and program developed 18701
pursuant to sections 2301.51 to 2301.58 of the Revised Code. 18702

(E) "Community control sanction" means a sanction that is not 18703
a prison term and that is described in section 2929.15, 2929.16, 18704
2929.17, or 2929.18 of the Revised Code or a sanction that is not 18705
a jail term and that is described in section 2929.26, 2929.27, or 18706
2929.28 of the Revised Code. "Community control sanction" includes 18707
probation if the sentence involved was imposed for a felony that 18708
was committed prior to July 1, 1996, or if the sentence involved 18709
was imposed for a misdemeanor that was committed prior to January 18710
1, 2004. 18711

(F) "Controlled substance," "marihuana," "schedule I," and 18712
"schedule II" have the same meanings as in section 3719.01 of the 18713
Revised Code. 18714

(G) "Curfew" means a requirement that an offender during a 18715
specified period of time be at a designated place. 18716

(H) "Day reporting" means a sanction pursuant to which an 18717
offender is required each day to report to and leave a center or 18718
other approved reporting location at specified times in order to 18719
participate in work, education or training, treatment, and other 18720
approved programs at the center or outside the center. 18721

(I) "Deadly weapon" has the same meaning as in section 18722
2923.11 of the Revised Code. 18723

(J) "Drug and alcohol use monitoring" means a program under 18724
which an offender agrees to submit to random chemical analysis of 18725
the offender's blood, breath, or urine to determine whether the 18726
offender has ingested any alcohol or other drugs. 18727

(K) "Drug treatment program" means any program under which a 18728
person undergoes assessment and treatment designed to reduce or 18729
completely eliminate the person's physical or emotional reliance 18730
upon alcohol, another drug, or alcohol and another drug and under 18731
which the person may be required to receive assessment and 18732
treatment on an outpatient basis or may be required to reside at a 18733
facility other than the person's home or residence while 18734
undergoing assessment and treatment. 18735

(L) "Economic loss" means any economic detriment suffered by 18736
a victim as a direct and proximate result of the commission of an 18737
offense and includes any loss of income due to lost time at work 18738
because of any injury caused to the victim, and any property loss, 18739
medical cost, or funeral expense incurred as a result of the 18740
commission of the offense. "Economic loss" does not include 18741
non-economic loss or any punitive or exemplary damages. 18742

(M) "Education or training" includes study at, or in 18743
conjunction with a program offered by, a university, college, or 18744
technical college or vocational study and also includes the 18745
completion of primary school, secondary school, and literacy 18746
curricula or their equivalent. 18747

(N) "Firearm" has the same meaning as in section 2923.11 of 18748
the Revised Code. 18749

(O) "Halfway house" means a facility licensed by the division 18750
of parole and community services of the department of 18751
rehabilitation and correction pursuant to section 2967.14 of the 18752
Revised Code as a suitable facility for the care and treatment of 18753
adult offenders. 18754

(P) "House arrest" means a period of confinement of an offender that is in the offender's home or in other premises specified by the sentencing court or by the parole board pursuant to section 2967.28 of the Revised Code and during which all of the following apply:

(1) The offender is required to remain in the offender's home or other specified premises for the specified period of confinement, except for periods of time during which the offender is at the offender's place of employment or at other premises as authorized by the sentencing court or by the parole board.

(2) The offender is required to report periodically to a person designated by the court or parole board.

(3) The offender is subject to any other restrictions and requirements that may be imposed by the sentencing court or by the parole board.

(Q) "Intensive probation supervision" means a requirement that an offender maintain frequent contact with a person appointed by the court, or by the parole board pursuant to section 2967.28 of the Revised Code, to supervise the offender while the offender is seeking or maintaining necessary employment and participating in training, education, and treatment programs as required in the court's or parole board's order. "Intensive probation supervision" includes intensive parole supervision and intensive post-release control supervision.

(R) "Jail" means a jail, workhouse, minimum security jail, or other residential facility used for the confinement of alleged or convicted offenders that is operated by a political subdivision or a combination of political subdivisions of this state.

(S) "Jail term" means the term in a jail that a sentencing court imposes or is authorized to impose pursuant to section 2929.24 or 2929.25 of the Revised Code or pursuant to any other

provision of the Revised Code that authorizes a term in a jail for 18786
a misdemeanor conviction. 18787

(T) "Mandatory jail term" means the term in a jail that a 18788
sentencing court is required to impose pursuant to division (G) of 18789
section 1547.99 of the Revised Code, division (E) of section 18790
2903.06 or division (D) of section 2903.08 of the Revised Code, 18791
division (E) or (G) of section 2929.24 of the Revised Code, 18792
division (B) of section 4510.14 of the Revised Code, or division 18793
(G) of section 4511.19 of the Revised Code or pursuant to any 18794
other provision of the Revised Code that requires a term in a jail 18795
for a misdemeanor conviction. 18796

(U) "Delinquent child" has the same meaning as in section 18797
2152.02 of the Revised Code. 18798

(V) "License violation report" means a report that is made by 18799
a sentencing court, or by the parole board pursuant to section 18800
2967.28 of the Revised Code, to the regulatory or licensing board 18801
or agency that issued an offender a professional license or a 18802
license or permit to do business in this state and that specifies 18803
that the offender has been convicted of or pleaded guilty to an 18804
offense that may violate the conditions under which the offender's 18805
professional license or license or permit to do business in this 18806
state was granted or an offense for which the offender's 18807
professional license or license or permit to do business in this 18808
state may be revoked or suspended. 18809

(W) "Major drug offender" means an offender who is convicted 18810
of or pleads guilty to the possession of, sale of, or offer to 18811
sell any drug, compound, mixture, preparation, or substance that 18812
consists of or contains at least one thousand grams of hashish; at 18813
least one hundred grams of cocaine; at least two thousand five 18814
hundred unit doses or two hundred fifty grams of heroin; at least 18815
five thousand unit doses of L.S.D. or five hundred grams of L.S.D. 18816
in a liquid concentrate, liquid extract, or liquid distillate 18817

form; or at least one hundred times the amount of any other 18818
schedule I or II controlled substance other than marihuana that is 18819
necessary to commit a felony of the third degree pursuant to 18820
section 2925.03, 2925.04, 2925.05, or 2925.11 of the Revised Code 18821
that is based on the possession of, sale of, or offer to sell the 18822
controlled substance. 18823

(X) "Mandatory prison term" means any of the following: 18824

(1) Subject to division (X)(2) of this section, the term in 18825
prison that must be imposed for the offenses or circumstances set 18826
forth in divisions (F)(1) to (8) or (F)(12) to (18) of section 18827
2929.13 and division (B) of section 2929.14 of the Revised Code. 18828
Except as provided in sections 2925.02, 2925.03, 2925.04, 2925.05, 18829
and 2925.11 of the Revised Code, unless the maximum or another 18830
specific term is required under section 2929.14 or 2929.142 of the 18831
Revised Code, a mandatory prison term described in this division 18832
may be any prison term authorized for the level of offense. 18833

(2) The term of sixty or one hundred twenty days in prison 18834
that a sentencing court is required to impose for a third or 18835
fourth degree felony OVI offense pursuant to division (G)(2) of 18836
section 2929.13 and division (G)(1)(d) or (e) of section 4511.19 18837
of the Revised Code or the term of one, two, three, four, or five 18838
years in prison that a sentencing court is required to impose 18839
pursuant to division (G)(2) of section 2929.13 of the Revised 18840
Code. 18841

(3) The term in prison imposed pursuant to division (A) of 18842
section 2971.03 of the Revised Code for the offenses and in the 18843
circumstances described in division (F)(11) of section 2929.13 of 18844
the Revised Code or pursuant to division (B)(1)(a), (b), or (c), 18845
(B)(2)(a), (b), or (c), or (B)(3)(a), (b), (c), or (d) of section 18846
2971.03 of the Revised Code and that term as modified or 18847
terminated pursuant to section 2971.05 of the Revised Code. 18848

(Y) "Monitored time" means a period of time during which an offender continues to be under the control of the sentencing court or parole board, subject to no conditions other than leading a law-abiding life.

(Z) "Offender" means a person who, in this state, is convicted of or pleads guilty to a felony or a misdemeanor.

(AA) "Prison" means a residential facility used for the confinement of convicted felony offenders that is under the control of the department of rehabilitation and correction but does not include a violation sanction center operated under authority of section 2967.141 of the Revised Code.

(BB) "Prison term" includes either of the following sanctions for an offender:

(1) A stated prison term;

(2) A term in a prison shortened by, or with the approval of, the sentencing court pursuant to section 2929.143, 2929.20, 2967.26, 5120.031, 5120.032, or 5120.073 of the Revised Code.

(CC) "Repeat violent offender" means a person about whom both of the following apply:

(1) The person is being sentenced for committing or for complicity in committing any of the following:

(a) Aggravated murder, murder, any felony of the first or second degree that is an offense of violence, or an attempt to commit any of these offenses if the attempt is a felony of the first or second degree;

(b) An offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to an offense described in division (CC)(1)(a) of this section.

(2) The person previously was convicted of or pleaded guilty

to an offense described in division (CC)(1)(a) or (b) of this 18879
section. 18880

(DD) "Sanction" means any penalty imposed upon an offender 18881
who is convicted of or pleads guilty to an offense, as punishment 18882
for the offense. "Sanction" includes any sanction imposed pursuant 18883
to any provision of sections 2929.14 to 2929.18 or 2929.24 to 18884
2929.28 of the Revised Code. 18885

(EE) "Sentence" means the sanction or combination of 18886
sanctions imposed by the sentencing court on an offender who is 18887
convicted of or pleads guilty to an offense. 18888

(FF) "Stated prison term" means the prison term, mandatory 18889
prison term, or combination of all prison terms and mandatory 18890
prison terms imposed by the sentencing court pursuant to section 18891
2929.14, 2929.142, or 2971.03 of the Revised Code or under section 18892
2919.25 of the Revised Code. "Stated prison term" includes any 18893
credit received by the offender for time spent in jail awaiting 18894
trial, sentencing, or transfer to prison for the offense and any 18895
time spent under house arrest or house arrest with electronic 18896
monitoring imposed after earning credits pursuant to section 18897
2967.193 of the Revised Code. If an offender is serving a prison 18898
term as a risk reduction sentence under sections 2929.142 and 18899
5120.036 of the Revised Code, "stated prison term" includes any 18900
period of time by which the prison term imposed upon the offender 18901
is shortened by the offender's successful completion of all 18902
assessment and treatment or programming pursuant to those 18903
sections. 18904

(GG) "Victim-offender mediation" means a reconciliation or 18905
mediation program that involves an offender and the victim of the 18906
offense committed by the offender and that includes a meeting in 18907
which the offender and the victim may discuss the offense, discuss 18908
restitution, and consider other sanctions for the offense. 18909

(HH) "Fourth degree felony OVI offense" means a violation of 18910
division (A) of section 4511.19 of the Revised Code that, under 18911
division (G) of that section, is a felony of the fourth degree. 18912

(II) "Mandatory term of local incarceration" means the term 18913
of sixty or one hundred twenty days in a jail, a community-based 18914
correctional facility, a halfway house, or an alternative 18915
residential facility that a sentencing court may impose upon a 18916
person who is convicted of or pleads guilty to a fourth degree 18917
felony OVI offense pursuant to division (G)(1) of section 2929.13 18918
of the Revised Code and division (G)(1)(d) or (e) of section 18919
4511.19 of the Revised Code. 18920

(JJ) "Designated homicide, assault, or kidnapping offense," 18921
"violent sex offense," "sexual motivation specification," 18922
"sexually violent offense," "sexually violent predator," and 18923
"sexually violent predator specification" have the same meanings 18924
as in section 2971.01 of the Revised Code. 18925

(KK) "Sexually oriented offense," "child-victim oriented 18926
offense," and "tier III sex offender/child-victim offender₇" have 18927
the same meanings as in section 2950.01 of the Revised Code. 18928

(LL) An offense is "committed in the vicinity of a child" if 18929
the offender commits the offense within thirty feet of or within 18930
the same residential unit as a child who is under eighteen years 18931
of age, regardless of whether the offender knows the age of the 18932
child or whether the offender knows the offense is being committed 18933
within thirty feet of or within the same residential unit as the 18934
child and regardless of whether the child actually views the 18935
commission of the offense. 18936

(MM) "Family or household member" has the same meaning as in 18937
section 2919.25 of the Revised Code. 18938

(NN) "Motor vehicle" and "manufactured home" have the same 18939
meanings as in section 4501.01 of the Revised Code. 18940

(OO) "Detention" and "detention facility" have the same meanings as in section 2921.01 of the Revised Code. 18941
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(PP) "Third degree felony OVI offense" means a violation of division (A) of section 4511.19 of the Revised Code that, under division (G) of that section, is a felony of the third degree. 18943
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(QQ) "Random drug testing" has the same meaning as in section 5120.63 of the Revised Code. 18946
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(RR) "Felony sex offense" has the same meaning as in section 2967.28 of the Revised Code. 18948
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(SS) "Body armor" has the same meaning as in section 2941.1411 of the Revised Code. 18950
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(TT) "Electronic monitoring" means monitoring through the use of an electronic monitoring device. 18952
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(UU) "Electronic monitoring device" means any of the following: 18954
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(1) Any device that can be operated by electrical or battery power and that conforms with all of the following: 18956
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(a) The device has a transmitter that can be attached to a person, that will transmit a specified signal to a receiver of the type described in division (UU)(1)(b) of this section if the transmitter is removed from the person, turned off, or altered in any manner without prior court approval in relation to electronic monitoring or without prior approval of the department of rehabilitation and correction in relation to the use of an electronic monitoring device for an inmate on transitional control or otherwise is tampered with, that can transmit continuously and periodically a signal to that receiver when the person is within a specified distance from the receiver, and that can transmit an appropriate signal to that receiver if the person to whom it is attached travels a specified distance from that receiver. 18958
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(b) The device has a receiver that can receive continuously 18971
the signals transmitted by a transmitter of the type described in 18972
division (UU)(1)(a) of this section, can transmit continuously 18973
those signals by a wireless or landline telephone connection to a 18974
central monitoring computer of the type described in division 18975
(UU)(1)(c) of this section, and can transmit continuously an 18976
appropriate signal to that central monitoring computer if the 18977
device has been turned off or altered without prior court approval 18978
or otherwise tampered with. The device is designed specifically 18979
for use in electronic monitoring, is not a converted wireless 18980
phone or another tracking device that is clearly not designed for 18981
electronic monitoring, and provides a means of text-based or voice 18982
communication with the person. 18983

(c) The device has a central monitoring computer that can 18984
receive continuously the signals transmitted by a wireless or 18985
landline telephone connection by a receiver of the type described 18986
in division (UU)(1)(b) of this section and can monitor 18987
continuously the person to whom an electronic monitoring device of 18988
the type described in division (UU)(1)(a) of this section is 18989
attached. 18990

(2) Any device that is not a device of the type described in 18991
division (UU)(1) of this section and that conforms with all of the 18992
following: 18993

(a) The device includes a transmitter and receiver that can 18994
monitor and determine the location of a subject person at any 18995
time, or at a designated point in time, through the use of a 18996
central monitoring computer or through other electronic means. 18997

(b) The device includes a transmitter and receiver that can 18998
determine at any time, or at a designated point in time, through 18999
the use of a central monitoring computer or other electronic means 19000
the fact that the transmitter is turned off or altered in any 19001
manner without prior approval of the court in relation to the 19002

electronic monitoring or without prior approval of the department 19003
of rehabilitation and correction in relation to the use of an 19004
electronic monitoring device for an inmate on transitional control 19005
or otherwise is tampered with. 19006

(3) Any type of technology that can adequately track or 19007
determine the location of a subject person at any time and that is 19008
approved by the director of rehabilitation and correction, 19009
including, but not limited to, any satellite technology, voice 19010
tracking system, or retinal scanning system that is so approved. 19011

(VV) "Non-economic loss" means nonpecuniary harm suffered by 19012
a victim of an offense as a result of or related to the commission 19013
of the offense, including, but not limited to, pain and suffering; 19014
loss of society, consortium, companionship, care, assistance, 19015
attention, protection, advice, guidance, counsel, instruction, 19016
training, or education; mental anguish; and any other intangible 19017
loss. 19018

(WW) "Prosecutor" has the same meaning as in section 2935.01 19019
of the Revised Code. 19020

(XX) "Continuous alcohol monitoring" means the ability to 19021
automatically test and periodically transmit alcohol consumption 19022
levels and tamper attempts at least every hour, regardless of the 19023
location of the person who is being monitored. 19024

(YY) A person is "adjudicated a sexually violent predator" if 19025
the person is convicted of or pleads guilty to a violent sex 19026
offense and also is convicted of or pleads guilty to a sexually 19027
violent predator specification that was included in the 19028
indictment, count in the indictment, or information charging that 19029
violent sex offense or if the person is convicted of or pleads 19030
guilty to a designated homicide, assault, or kidnapping offense 19031
and also is convicted of or pleads guilty to both a sexual 19032
motivation specification and a sexually violent predator 19033

specification that were included in the indictment, count in the indictment, or information charging that designated homicide, assault, or kidnapping offense.

(ZZ) An offense is "committed in proximity to a school" if the offender commits the offense in a school safety zone or within five hundred feet of any school building or the boundaries of any school premises, regardless of whether the offender knows the offense is being committed in a school safety zone or within five hundred feet of any school building or the boundaries of any school premises.

(AAA) "Human trafficking" means a scheme or plan to which all of the following apply:

(1) Its object is to subject a victim or victims to involuntary servitude, as defined in section 2905.31 of the Revised Code, to compel a victim or victims to engage in sexual activity for hire, to engage in a performance that is obscene, sexually oriented, or nudity oriented, or to be a model or participant in the production of material that is obscene, sexually oriented, or nudity oriented.

(2) It involves at least two felony offenses, whether or not there has been a prior conviction for any of the felony offenses, to which all of the following apply:

(a) Each of the felony offenses is a violation of section 2905.01, 2905.02, 2905.32, 2907.21, 2907.22, or 2923.32, division (A)(1) or (2) of section 2907.323, or division (B)(1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code or is a violation of a law of any state other than this state that is substantially similar to any of the sections or divisions of the Revised Code identified in this division.

(b) At least one of the felony offenses was committed in this state.

(c) The felony offenses are related to the same scheme or plan and are not isolated instances. 19065
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(BBB) "Material," "nudity," "obscene," "performance," and "sexual activity" have the same meanings as in section 2907.01 of the Revised Code. 19067
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(CCC) "Material that is obscene, sexually oriented, or nudity oriented" means any material that is obscene, that shows a person participating or engaging in sexual activity, masturbation, or bestiality, or that shows a person in a state of nudity. 19070
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(DDD) "Performance that is obscene, sexually oriented, or nudity oriented" means any performance that is obscene, that shows a person participating or engaging in sexual activity, masturbation, or bestiality, or that shows a person in a state of nudity. 19074
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Sec. 2929.19. (A) The court shall hold a sentencing hearing before imposing a sentence under this chapter upon an offender who was convicted of or pleaded guilty to a felony and before resentencing an offender who was convicted of or pleaded guilty to a felony and whose case was remanded pursuant to section 2953.07 or 2953.08 of the Revised Code. At the hearing, the offender, the prosecuting attorney, the victim or the victim's representative in accordance with section 2930.14 of the Revised Code, and, with the approval of the court, any other person may present information relevant to the imposition of sentence in the case. The court shall inform the offender of the verdict of the jury or finding of the court and ask the offender whether the offender has anything to say as to why sentence should not be imposed upon the offender. 19079
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(B)(1) At the sentencing hearing, the court, before imposing sentence, shall consider the record, any information presented at the hearing by any person pursuant to division (A) of this section, and, if one was prepared, the presentence investigation 19092
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report made pursuant to section 2951.03 of the Revised Code or 19096
Criminal Rule 32.2, and any victim impact statement made pursuant 19097
to section 2947.051 of the Revised Code. 19098

(2) Subject to division (B)(3) of this section, if the 19099
sentencing court determines at the sentencing hearing that a 19100
prison term is necessary or required, the court shall do all of 19101
the following: 19102

(a) Impose a stated prison term and, if the court imposes a 19103
mandatory prison term, notify the offender that the prison term is 19104
a mandatory prison term; 19105

(b) In addition to any other information, include in the 19106
sentencing entry the name and section reference to the offense or 19107
offenses, the sentence or sentences imposed and whether the 19108
sentence or sentences contain mandatory prison terms, if sentences 19109
are imposed for multiple counts whether the sentences are to be 19110
served concurrently or consecutively, and the name and section 19111
reference of any specification or specifications for which 19112
sentence is imposed and the sentence or sentences imposed for the 19113
specification or specifications; 19114

(c) Notify the offender that the offender will be supervised 19115
under section 2967.28 of the Revised Code after the offender 19116
leaves prison if the offender is being sentenced for a felony of 19117
the first degree or second degree, for a felony sex offense, or 19118
for a felony of the third degree that is not a felony sex offense 19119
and in the commission of which the offender caused or threatened 19120
to cause physical harm to a person. This division applies with 19121
respect to all prison terms imposed for an offense of a type 19122
described in this division, including a term imposed for any such 19123
offense that is a risk reduction sentence, as defined in section 19124
2967.28 of the Revised Code. If a court imposes a sentence 19125
including a prison term of a type described in division (B)(2)(c) 19126
of this section on or after July 11, 2006, the failure of a court 19127

to notify the offender pursuant to division (B)(2)(c) of this 19128
section that the offender will be supervised under section 2967.28 19129
of the Revised Code after the offender leaves prison or to include 19130
in the judgment of conviction entered on the journal a statement 19131
to that effect does not negate, limit, or otherwise affect the 19132
mandatory period of supervision that is required for the offender 19133
under division (B) of section 2967.28 of the Revised Code. Section 19134
2929.191 of the Revised Code applies if, prior to July 11, 2006, a 19135
court imposed a sentence including a prison term of a type 19136
described in division (B)(2)(c) of this section and failed to 19137
notify the offender pursuant to division (B)(2)(c) of this section 19138
regarding post-release control or to include in the judgment of 19139
conviction entered on the journal or in the sentence a statement 19140
regarding post-release control. 19141

(d) Notify the offender that the offender may be supervised 19142
under section 2967.28 of the Revised Code after the offender 19143
leaves prison if the offender is being sentenced for a felony of 19144
the third, fourth, or fifth degree that is not subject to division 19145
(B)(2)(c) of this section. This division applies with respect to 19146
all prison terms imposed for an offense of a type described in 19147
this division, including a term imposed for any such offense that 19148
is a risk reduction sentence, as defined in section 2967.28 of the 19149
Revised Code. Section 2929.191 of the Revised Code applies if, 19150
prior to July 11, 2006, a court imposed a sentence including a 19151
prison term of a type described in division (B)(2)(d) of this 19152
section and failed to notify the offender pursuant to division 19153
(B)(2)(d) of this section regarding post-release control or to 19154
include in the judgment of conviction entered on the journal or in 19155
the sentence a statement regarding post-release control. 19156

(e) Notify the offender that, if a period of supervision is 19157
imposed following the offender's release from prison, as described 19158
in division (B)(2)(c) or (d) of this section, and if the offender 19159

violates that supervision or a condition of post-release control 19160
imposed under division (B) of section 2967.131 of the Revised 19161
Code, the parole board may impose a prison term, as part of the 19162
sentence, of up to one-half of the stated prison term originally 19163
imposed upon the offender. If a court imposes a sentence including 19164
a prison term on or after July 11, 2006, the failure of a court to 19165
notify the offender pursuant to division (B)(2)(e) of this section 19166
that the parole board may impose a prison term as described in 19167
division (B)(2)(e) of this section for a violation of that 19168
supervision or a condition of post-release control imposed under 19169
division (B) of section 2967.131 of the Revised Code or to include 19170
in the judgment of conviction entered on the journal a statement 19171
to that effect does not negate, limit, or otherwise affect the 19172
authority of the parole board to so impose a prison term for a 19173
violation of that nature if, pursuant to division (D)(1) of 19174
section 2967.28 of the Revised Code, the parole board notifies the 19175
offender prior to the offender's release of the board's authority 19176
to so impose a prison term. Section 2929.191 of the Revised Code 19177
applies if, prior to July 11, 2006, a court imposed a sentence 19178
including a prison term and failed to notify the offender pursuant 19179
to division (B)(2)(e) of this section regarding the possibility of 19180
the parole board imposing a prison term for a violation of 19181
supervision or a condition of post-release control. 19182

(f) Require that the offender not ingest or be injected with 19183
a drug of abuse and submit to random drug testing as provided in 19184
section 341.26, 753.33, or 5120.63 of the Revised Code, whichever 19185
is applicable to the offender who is serving a prison term, and 19186
require that the results of the drug test administered under any 19187
of those sections indicate that the offender did not ingest or was 19188
not injected with a drug of abuse. 19189

(g) Include in the offender's sentence a statement notifying 19190
the offender of the information described in division (F)(3) of 19191

section 2929.14 of the Revised Code regarding earned credits under 19192
section 2967.193 of the Revised Code. 19193

(h)(i) Determine, notify the offender of, and include in the 19194
sentencing entry the number of days that the offender has been 19195
confined for any reason arising out of the offense for which the 19196
offender is being sentenced and by which the department of 19197
rehabilitation and correction must reduce the stated prison term 19198
under section 2967.191 of the Revised Code. The court's 19199
calculation shall not include the number of days, if any, that the 19200
offender previously served in the custody of the department of 19201
rehabilitation and correction arising out of the offense for which 19202
the prisoner was convicted and sentenced. 19203

(ii) In making a determination under division (B)(2)(h)(i) of 19204
this section, the court shall consider the arguments of the 19205
parties and conduct a hearing if one is requested. 19206

(iii) The sentencing court retains continuing jurisdiction to 19207
correct any error not previously raised at sentencing in making a 19208
determination under division (B)(2)(h)(i) of this section. The 19209
offender may, at any time after sentencing, file a motion in the 19210
sentencing court to correct any error made in making a 19211
determination under division (B)(2)(h)(i) of this section, and the 19212
court may in its discretion grant or deny that motion. If the 19213
court changes the number of days in its determination or 19214
redetermination, the court shall cause the entry granting that 19215
change to be delivered to the department of rehabilitation and 19216
correction without delay. Sections 2931.15 and 2953.21 of the 19217
Revised Code do not apply to a motion made under this section. 19218

(iv) An inaccurate determination under division (B)(2)(h)(i) 19219
of this section is not grounds for setting aside the offender's 19220
conviction or sentence and does not otherwise render the sentence 19221
void or voidable. 19222

(3)(a) The court shall include in the offender's sentence a statement that the offender is a tier III sex offender/child-victim offender, and the court shall comply with the requirements of section 2950.03 of the Revised Code if any of the following apply:

(i) The offender is being sentenced for a violent sex offense or designated homicide, assault, or kidnapping offense that the offender committed on or after January 1, 1997, and the offender is adjudicated a sexually violent predator in relation to that offense.

(ii) The offender is being sentenced for a sexually oriented offense that the offender committed on or after January 1, 1997, and the offender is a tier III sex offender/child-victim offender relative to that offense.

(iii) The offender is being sentenced on or after July 31, 2003, for a child-victim oriented offense, and the offender is a tier III sex offender/child-victim offender relative to that offense.

(iv) The offender is being sentenced under section 2971.03 of the Revised Code for a violation of division (A)(1)(b) of section 2907.02 of the Revised Code committed on or after January 2, 2007.

(v) The offender is sentenced to a term of life without parole under division (B) of section 2907.02 of the Revised Code.

(vi) The offender is being sentenced for attempted rape committed on or after January 2, 2007, and a specification of the type described in section 2941.1418, 2941.1419, or 2941.1420 of the Revised Code.

(vii) The offender is being sentenced under division (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised Code for an offense described in those divisions committed on or after January 1, 2008.

(b) Additionally, if any criterion set forth in divisions 19254
(B)(3)(a)(i) to (vii) of this section is satisfied, in the 19255
circumstances described in division (E) of section 2929.14 of the 19256
Revised Code, the court shall impose sentence on the offender as 19257
described in that division. 19258

(4) If the sentencing court determines at the sentencing 19259
hearing that a community control sanction should be imposed and 19260
the court is not prohibited from imposing a community control 19261
sanction, the court shall impose a community control sanction. The 19262
court shall notify the offender that, if the conditions of the 19263
sanction are violated, if the offender commits a violation of any 19264
law, or if the offender leaves this state without the permission 19265
of the court or the offender's probation officer, the court may 19266
impose a longer time under the same sanction, may impose a more 19267
restrictive sanction, or may impose a prison term on the offender 19268
and shall indicate the specific prison term that may be imposed as 19269
a sanction for the violation, as selected by the court from the 19270
range of prison terms for the offense pursuant to section 2929.14 19271
of the Revised Code. 19272

(5) Before imposing a financial sanction under section 19273
2929.18 of the Revised Code or a fine under section 2929.32 of the 19274
Revised Code, the court shall consider the offender's present and 19275
future ability to pay the amount of the sanction or fine. 19276

(6) If the sentencing court sentences the offender to a 19277
sanction of confinement pursuant to section 2929.14 or 2929.16 of 19278
the Revised Code that is to be served in a local detention 19279
facility, as defined in section 2929.36 of the Revised Code, and 19280
if the local detention facility is covered by a policy adopted 19281
pursuant to section 307.93, 341.14, 341.19, 341.21, 341.23, 19282
753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code 19283
and section 2929.37 of the Revised Code, both of the following 19284
apply: 19285

(a) The court shall specify both of the following as part of the sentence: 19286
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(i) If the offender is presented with an itemized bill pursuant to section 2929.37 of the Revised Code for payment of the costs of confinement, the offender is required to pay the bill in accordance with that section. 19288
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(ii) If the offender does not dispute the bill described in division (B)(6)(a)(i) of this section and does not pay the bill by the times specified in section 2929.37 of the Revised Code, the clerk of the court may issue a certificate of judgment against the offender as described in that section. 19292
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(b) The sentence automatically includes any certificate of judgment issued as described in division (B)(6)(a)(ii) of this section. 19297
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(7) The failure of the court to notify the offender that a prison term is a mandatory prison term pursuant to division (B)(2)(a) of this section or to include in the sentencing entry any information required by division (B)(2)(b) of this section does not affect the validity of the imposed sentence or sentences. 19300
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If the sentencing court notifies the offender at the sentencing hearing that a prison term is mandatory but the sentencing entry does not specify that the prison term is mandatory, the court may complete a corrected journal entry and send copies of the corrected entry to the offender and the department of rehabilitation and correction, or, at the request of the state, the court shall complete a corrected journal entry and send copies of the corrected entry to the offender and department of rehabilitation and correction.

(C)(1) If the offender is being sentenced for a fourth degree felony OVI offense under division (G)(1) of section 2929.13 of the Revised Code, the court shall impose the mandatory term of local 19314
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incarceration in accordance with that division, shall impose a 19317
mandatory fine in accordance with division (B)(3) of section 19318
2929.18 of the Revised Code, and, in addition, may impose 19319
additional sanctions as specified in sections 2929.15, 2929.16, 19320
2929.17, and 2929.18 of the Revised Code. The court shall not 19321
impose a prison term on the offender except that the court may 19322
impose a prison term upon the offender as provided in division 19323
(A)(1) of section 2929.13 of the Revised Code. 19324

(2) If the offender is being sentenced for a third or fourth 19325
degree felony OVI offense under division (G)(2) of section 2929.13 19326
of the Revised Code, the court shall impose the mandatory prison 19327
term in accordance with that division, shall impose a mandatory 19328
fine in accordance with division (B)(3) of section 2929.18 of the 19329
Revised Code, and, in addition, may impose an additional prison 19330
term as specified in section 2929.14 of the Revised Code. In 19331
addition to the mandatory prison term or mandatory prison term and 19332
additional prison term the court imposes, the court also may 19333
impose a community control sanction on the offender, but the 19334
offender shall serve all of the prison terms so imposed prior to 19335
serving the community control sanction. 19336

(D) The sentencing court, pursuant to division (I)(1) of 19337
section 2929.14 of the Revised Code, may recommend placement of 19338
the offender in a program of shock incarceration under section 19339
5120.031 of the Revised Code or an intensive program prison under 19340
section 5120.032 of the Revised Code, disapprove placement of the 19341
offender in a program or prison of that nature, or make no 19342
recommendation. If the court recommends or disapproves placement, 19343
it shall make a finding that gives its reasons for its 19344
recommendation or disapproval. 19345

Sec. 2939.11. The official ~~shorthand~~ reporter of the county, 19346
or any ~~shorthand~~ reporter designated by the court of common pleas, 19347

at the request of the prosecuting attorney, or any such reporter 19348
designated by the attorney general in investigations conducted by 19349
~~him~~ the attorney general, may take ~~shorthand~~ notes of or 19350
electronically record testimony before the grand jury, and furnish 19351
a transcript to the prosecuting attorney or the attorney general, 19352
and to no other person. The ~~shorthand~~ reporter shall withdraw from 19353
the jury room before the jurors begin to express their views or 19354
take their vote on the matter before them. Such reporter shall 19355
take an oath to be administered by the judge after the grand jury 19356
is sworn, imposing an obligation of secrecy to not disclose any 19357
testimony taken or heard except to the grand jury, prosecuting 19358
attorney, or attorney general, unless called upon in court to make 19359
disclosures. 19360

Sec. 2945.371. (A) If the issue of a defendant's competence 19361
to stand trial is raised or if a defendant enters a plea of not 19362
guilty by reason of insanity, the court may order one or more 19363
evaluations of the defendant's present mental condition or, in the 19364
case of a plea of not guilty by reason of insanity, of the 19365
defendant's mental condition at the time of the offense charged. 19366
An examiner shall conduct the evaluation. 19367

(B) If the court orders more than one evaluation under 19368
division (A) of this section, the prosecutor and the defendant may 19369
recommend to the court an examiner whom each prefers to perform 19370
one of the evaluations. If a defendant enters a plea of not guilty 19371
by reason of insanity and if the court does not designate an 19372
examiner recommended by the defendant, the court shall inform the 19373
defendant that the defendant may have independent expert 19374
evaluation and that, if the defendant is unable to obtain 19375
independent expert evaluation, it will be obtained for the 19376
defendant at public expense if the defendant is indigent. 19377

(C) If the court orders an evaluation under division (A) of 19378

this section, the defendant shall be available at the times and 19379
places established by the examiners who are to conduct the 19380
evaluation. The court may order a defendant who has been released 19381
on bail or recognizance to submit to an evaluation under this 19382
section. If a defendant who has been released on bail or 19383
recognizance refuses to submit to a complete evaluation, the court 19384
may amend the conditions of bail or recognizance and order the 19385
sheriff to take the defendant into custody and deliver the 19386
defendant to a center, program, or facility operated or certified 19387
by the department of mental health or the department of 19388
developmental disabilities where the defendant may be held for 19389
evaluation for a reasonable period of time not to exceed twenty 19390
days. 19391

(D) A defendant who has not been released on bail or 19392
recognizance may be evaluated at the defendant's place of 19393
detention. Upon the request of the examiner, the court may order 19394
the sheriff to transport the defendant to a program or facility 19395
operated or certified by the department of mental health or the 19396
department of developmental disabilities, where the defendant may 19397
be held for evaluation for a reasonable period of time not to 19398
exceed twenty days, and to return the defendant to the place of 19399
detention after the evaluation. A municipal court may make an 19400
order under this division only upon the request of a certified 19401
forensic center examiner. 19402

(E) If a court orders the evaluation to determine a 19403
defendant's mental condition at the time of the offense charged, 19404
the court shall inform the examiner of the offense with which the 19405
defendant is charged. 19406

(F) In conducting an evaluation of a defendant's mental 19407
condition at the time of the offense charged, the examiner shall 19408
consider all relevant evidence. If the offense charged involves 19409
the use of force against another person, the relevant evidence to 19410

be considered includes, but is not limited to, any evidence that 19411
the defendant suffered, at the time of the commission of the 19412
offense, from the "battered woman syndrome." 19413

(G) The examiner shall file a written report with the court 19414
within thirty days after entry of a court order for evaluation, 19415
and the court shall provide copies of the report to the prosecutor 19416
and defense counsel. The report shall include all of the 19417
following: 19418

(1) The examiner's findings; 19419

(2) The facts in reasonable detail on which the findings are 19420
based; 19421

(3) If the evaluation was ordered to determine the 19422
defendant's competence to stand trial, all of the following 19423
findings or recommendations that are applicable: 19424

(a) Whether the defendant is capable of understanding the 19425
nature and objective of the proceedings against the defendant or 19426
of assisting in the defendant's defense; 19427

(b) If the examiner's opinion is that the defendant is 19428
incapable of understanding the nature and objective of the 19429
proceedings against the defendant or of assisting in the 19430
defendant's defense, whether the defendant presently is mentally 19431
ill or mentally retarded and, if the examiner's opinion is that 19432
the defendant presently is mentally retarded, whether the 19433
defendant appears to be a mentally retarded person subject to 19434
institutionalization by court order; 19435

(c) If the examiner's opinion is that the defendant is 19436
incapable of understanding the nature and objective of the 19437
proceedings against the defendant or of assisting in the 19438
defendant's defense, the examiner's opinion as to the likelihood 19439
of the defendant becoming capable of understanding the nature and 19440
objective of the proceedings against the defendant and of 19441

assisting in the defendant's defense within one year if the 19442
defendant is provided with a course of treatment; 19443

(d) If the examiner's opinion is that the defendant is 19444
incapable of understanding the nature and objective of the 19445
proceedings against the defendant or of assisting in the 19446
defendant's defense and that the defendant presently is mentally 19447
ill or mentally retarded, the examiner's recommendation as to the 19448
least restrictive placement or commitment alternative, consistent 19449
with the defendant's treatment needs for restoration to competency 19450
and with the safety of the community; 19451

~~(e) If the defendant is charged with a misdemeanor offense 19452
that is not an offense of violence and the examiner's opinion is 19453
that the defendant is incapable of understanding the nature and 19454
objective of the proceedings against the defendant or of assisting 19455
in the defendant's defense and that the defendant is presently 19456
mentally ill or mentally retarded, the examiner's recommendation 19457
as to whether the defendant is amenable to engagement in mental 19458
health treatment or developmental disability services. 19459~~

(4) If the evaluation was ordered to determine the 19460
defendant's mental condition at the time of the offense charged, 19461
the examiner's findings as to whether the defendant, at the time 19462
of the offense charged, did not know, as a result of a severe 19463
mental disease or defect, the wrongfulness of the defendant's acts 19464
charged. 19465

(H) If the examiner's report filed under division (G) of this 19466
section indicates that in the examiner's opinion the defendant is 19467
incapable of understanding the nature and objective of the 19468
proceedings against the defendant or of assisting in the 19469
defendant's defense and that in the examiner's opinion the 19470
defendant appears to be a mentally retarded person subject to 19471
institutionalization by court order, the court shall order the 19472
defendant to undergo a separate mental retardation evaluation 19473

conducted by a psychologist designated by the director of 19474
developmental disabilities. Divisions (C) to (F) of this section 19475
apply in relation to a separate mental retardation evaluation 19476
conducted under this division. The psychologist appointed under 19477
this division to conduct the separate mental retardation 19478
evaluation shall file a written report with the court within 19479
thirty days after the entry of the court order requiring the 19480
separate mental retardation evaluation, and the court shall 19481
provide copies of the report to the prosecutor and defense 19482
counsel. The report shall include all of the information described 19483
in divisions (G)(1) to (4) of this section. If the court orders a 19484
separate mental retardation evaluation of a defendant under this 19485
division, the court shall not conduct a hearing under divisions 19486
(B) to (H) of section 2945.37 of the Revised Code regarding that 19487
defendant until a report of the separate mental retardation 19488
evaluation conducted under this division has been filed. Upon the 19489
filing of that report, the court shall conduct the hearing within 19490
the period of time specified in division (C) of section 2945.37 of 19491
the Revised Code. 19492

(I) An examiner appointed under divisions (A) and (B) of this 19493
section or under division (H) of this section to evaluate a 19494
defendant to determine the defendant's competence to stand trial 19495
also may be appointed to evaluate a defendant who has entered a 19496
plea of not guilty by reason of insanity, but an examiner of that 19497
nature shall prepare separate reports on the issue of competence 19498
to stand trial and the defense of not guilty by reason of 19499
insanity. 19500

(J) No statement that a defendant makes in an evaluation or 19501
hearing under divisions (A) to (H) of this section relating to the 19502
defendant's competence to stand trial or to the defendant's mental 19503
condition at the time of the offense charged shall be used against 19504
the defendant on the issue of guilt in any criminal action or 19505

proceeding, but, in a criminal action or proceeding, the 19506
prosecutor or defense counsel may call as a witness any person who 19507
evaluated the defendant or prepared a report pursuant to a 19508
referral under this section. Neither the appointment nor the 19509
testimony of an examiner appointed under this section precludes 19510
the prosecutor or defense counsel from calling other witnesses or 19511
presenting other evidence on competency or insanity issues. 19512

(K) Persons appointed as examiners under divisions (A) and 19513
(B) of this section or under division (H) of this section shall be 19514
paid a reasonable amount for their services and expenses, as 19515
certified by the court. The certified amount shall be paid by the 19516
county in the case of county courts and courts of common pleas and 19517
by the legislative authority, as defined in section 1901.03 of the 19518
Revised Code, in the case of municipal courts. 19519

Sec. 2945.38. (A) If the issue of a defendant's competence to 19520
stand trial is raised and if the court, upon conducting the 19521
hearing provided for in section 2945.37 of the Revised Code, finds 19522
that the defendant is competent to stand trial, the defendant 19523
shall be proceeded against as provided by law. If the court finds 19524
the defendant competent to stand trial and the defendant is 19525
receiving psychotropic drugs or other medication, the court may 19526
authorize the continued administration of the drugs or medication 19527
or other appropriate treatment in order to maintain the 19528
defendant's competence to stand trial, unless the defendant's 19529
attending physician advises the court against continuation of the 19530
drugs, other medication, or treatment. 19531

(B)(1)(a) If, after taking into consideration all relevant 19532
reports, information, and other evidence, the court finds that the 19533
defendant is incompetent to stand trial and that there is a 19534
substantial probability that the defendant will become competent 19535
to stand trial within one year if the defendant is provided with a 19536

course of treatment, the court shall order the defendant to 19537
undergo treatment. If the defendant has been charged with a felony 19538
offense and if, after taking into consideration all relevant 19539
reports, information, and other evidence, the court finds that the 19540
defendant is incompetent to stand trial, but the court is unable 19541
at that time to determine whether there is a substantial 19542
probability that the defendant will become competent to stand 19543
trial within one year if the defendant is provided with a course 19544
of treatment, the court shall order continuing evaluation and 19545
treatment of the defendant for a period not to exceed four months 19546
to determine whether there is a substantial probability that the 19547
defendant will become competent to stand trial within one year if 19548
the defendant is provided with a course of treatment. 19549

(b) The court order for the defendant to undergo treatment or 19550
continuing evaluation and treatment under division (B)(1)(a) of 19551
this section shall specify that the defendant, if determined to 19552
require mental health treatment or continuing evaluation and 19553
treatment, either shall be committed to the department of mental 19554
health for treatment or continuing evaluation and treatment at a 19555
hospital, facility, or agency, as determined to be clinically 19556
appropriate by the department of mental health ~~and~~ or shall be 19557
committed to a facility certified by the department of mental 19558
health as being qualified to treat mental illness, to a public or 19559
community mental health facility, or to a psychiatrist or another 19560
mental health professional for treatment or continuing evaluation 19561
and treatment. Prior to placing the defendant, the department of 19562
mental health shall obtain court approval for that placement 19563
following a hearing. The court order for the defendant to undergo 19564
treatment or continuing evaluation and treatment under division 19565
(B)(1)(a) of this section shall specify that the defendant, if 19566
determined to require treatment or continuing evaluation and 19567
treatment for ~~a developmental disability~~ mental retardation, shall 19568
receive treatment or continuing evaluation and treatment at an 19569

institution or facility operated by the department of 19570
developmental disabilities, at a facility certified by the 19571
department of developmental disabilities as being qualified to 19572
treat mental retardation, at a public or private ~~community~~ mental 19573
retardation facility, or by a psychiatrist or another mental 19574
retardation professional. ~~The~~ In any case, the order may restrict 19575
the defendant's freedom of movement as the court considers 19576
necessary. The prosecutor in the defendant's case shall send to 19577
the chief clinical officer of the hospital, facility, or agency 19578
where the defendant is placed by the department of mental health, 19579
or to the managing officer of the institution, the director of the 19580
program or facility, or the person to which the defendant is 19581
committed, copies of relevant police reports and other background 19582
information that pertains to the defendant and is available to the 19583
prosecutor unless the prosecutor determines that the release of 19584
any of the information in the police reports or any of the other 19585
background information to unauthorized persons would interfere 19586
with the effective prosecution of any person or would create a 19587
substantial risk of harm to any person. 19588

~~In committing the defendant to the department of mental 19589
health, the court shall consider the extent to which the person is 19590
a danger to the person and to others, the need for security, and 19591
the type of crime involved and, if the court finds that 19592
restrictions on the defendant's freedom of movement are necessary, 19593
shall specify the least restrictive limitations on the person's 19594
freedom of movement determined to be necessary to protect public 19595
safety. In determining the place of commitment alternatives for 19596
~~defendants determined to require treatment or continuing 19597
evaluation and treatment for developmental disabilities,~~ the court 19598
shall consider the extent to which the person is a danger to the 19599
person and to others, the need for security, and the type of crime 19600
involved and shall order the least restrictive alternative 19601
available that is consistent with public safety and treatment 19602~~

goals. In weighing these factors, the court shall give preference 19603
to protecting public safety. 19604

(c) If the defendant is found incompetent to stand trial, if 19605
the chief clinical officer of the hospital, facility, or agency 19606
where the defendant is placed, or the managing officer of the 19607
institution, the director of the program or facility, or the 19608
person to which the defendant is committed for treatment or 19609
continuing evaluation and treatment under division (B)(1)(b) of 19610
this section determines that medication is necessary to restore 19611
the defendant's competency to stand trial, and if the defendant 19612
lacks the capacity to give informed consent or refuses medication, 19613
the chief clinical officer of the hospital, facility, or agency 19614
where the defendant is placed, or the managing officer of the 19615
institution, the director of the program or facility, or the 19616
person to which the defendant is committed for treatment or 19617
continuing evaluation and treatment may petition the court for 19618
authorization for the involuntary administration of medication. 19619
The court shall hold a hearing on the petition within five days of 19620
the filing of the petition if the petition was filed in a 19621
municipal court or a county court regarding an incompetent 19622
defendant charged with a misdemeanor or within ten days of the 19623
filing of the petition if the petition was filed in a court of 19624
common pleas regarding an incompetent defendant charged with a 19625
felony offense. Following the hearing, the court may authorize the 19626
involuntary administration of medication or may dismiss the 19627
petition. 19628

~~(d) If the defendant is charged with a misdemeanor offense 19629
that is not an offense of violence, the prosecutor may hold the 19630
charges in abeyance while the defendant engages in mental health 19631
treatment or developmental disability services. 19632~~

(2) If the court finds that the defendant is incompetent to 19633
stand trial and that, even if the defendant is provided with a 19634

course of treatment, there is not a substantial probability that 19635
the defendant will become competent to stand trial within one 19636
year, the court shall order the discharge of the defendant, unless 19637
upon motion of the prosecutor or on its own motion, the court 19638
either seeks to retain jurisdiction over the defendant pursuant to 19639
section 2945.39 of the Revised Code or files an affidavit in the 19640
probate court for the civil commitment of the defendant pursuant 19641
to Chapter 5122. or 5123. of the Revised Code alleging that the 19642
defendant is a mentally ill person subject to hospitalization by 19643
court order or a mentally retarded person subject to 19644
institutionalization by court order. If an affidavit is filed in 19645
the probate court, the trial court shall send to the probate court 19646
copies of all written reports of the defendant's mental condition 19647
that were prepared pursuant to section 2945.371 of the Revised 19648
Code. 19649

The trial court may issue the temporary order of detention 19650
that a probate court may issue under section 5122.11 or 5123.71 of 19651
the Revised Code, to remain in effect until the probable cause or 19652
initial hearing in the probate court. Further proceedings in the 19653
probate court are civil proceedings governed by Chapter 5122. or 19654
5123. of the Revised Code. 19655

(C) No defendant shall be required to undergo treatment, 19656
including any continuing evaluation and treatment, under division 19657
(B)(1) of this section for longer than whichever of the following 19658
periods is applicable: 19659

(1) One year, if the most serious offense with which the 19660
defendant is charged is one of the following offenses: 19661

(a) Aggravated murder, murder, or an offense of violence for 19662
which a sentence of death or life imprisonment may be imposed; 19663

(b) An offense of violence that is a felony of the first or 19664
second degree; 19665

(c) A conspiracy to commit, an attempt to commit, or complicity in the commission of an offense described in division (C)(1)(a) or (b) of this section if the conspiracy, attempt, or complicity is a felony of the first or second degree. 19666
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(2) Six months, if the most serious offense with which the defendant is charged is a felony other than a felony described in division (C)(1) of this section; 19670
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(3) Sixty days, if the most serious offense with which the defendant is charged is a misdemeanor of the first or second degree; 19673
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(4) Thirty days, if the most serious offense with which the defendant is charged is a misdemeanor of the third or fourth degree, a minor misdemeanor, or an unclassified misdemeanor. 19676
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(D) Any defendant who is committed pursuant to this section shall not voluntarily admit the defendant or be voluntarily admitted to a hospital or institution pursuant to section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 19679
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(E) Except as otherwise provided in this division, a defendant who is charged with an offense and is committed by the court under this section to the department of mental health ~~with restrictions on the defendant's freedom of movement~~ or is committed to an institution or facility for the treatment of ~~developmental disabilities~~ mental retardation shall not be granted unsupervised on-grounds movement, supervised off-grounds movement, or nonsecured status except in accordance with the court order. 19683
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provided at the hospital or facility where the defendant is placed 19697
by the department of mental health or the institution or facility 19698
to which the defendant is committed. The chief clinical officer of 19699
the hospital or facility where the defendant is placed by the 19700
department of mental health or the managing officer of the 19701
institution or director of the facility to which the defendant is 19702
committed, or a designee of any of those persons, may grant a 19703
defendant movement to a medical facility for an emergency medical 19704
situation with appropriate supervision to ensure the safety of the 19705
defendant, staff, and community during that emergency medical 19706
situation. The chief clinical officer of the hospital or facility 19707
where the defendant is placed by the department of mental health 19708
or the managing officer of the institution or director of the 19709
facility to which the defendant is committed shall notify the 19710
court within twenty-four hours of the defendant's movement to the 19711
medical facility for an emergency medical situation under this 19712
division. 19713

(F) The person who supervises the treatment or continuing 19714
evaluation and treatment of a defendant ordered to undergo 19715
treatment or continuing evaluation and treatment under division 19716
(B)(1)(a) of this section shall file a written report with the 19717
court at the following times: 19718

(1) Whenever the person believes the defendant is capable of 19719
understanding the nature and objective of the proceedings against 19720
the defendant and of assisting in the defendant's defense; 19721

(2) For a felony offense, fourteen days before expiration of 19722
the maximum time for treatment as specified in division (C) of 19723
this section and fourteen days before the expiration of the 19724
maximum time for continuing evaluation and treatment as specified 19725
in division (B)(1)(a) of this section, and, for a misdemeanor 19726
offense, ten days before the expiration of the maximum time for 19727
treatment, as specified in division (C) of this section; 19728

(3) At a minimum, after each six months of treatment; 19729

(4) Whenever the person who supervises the treatment or 19730
continuing evaluation and treatment of a defendant ordered under 19731
division (B)(1)(a) of this section believes that there is not a 19732
substantial probability that the defendant will become capable of 19733
understanding the nature and objective of the proceedings against 19734
the defendant or of assisting in the defendant's defense even if 19735
the defendant is provided with a course of treatment. 19736

(G) A report under division (F) of this section shall contain 19737
the examiner's findings, the facts in reasonable detail on which 19738
the findings are based, and the examiner's opinion as to the 19739
defendant's capability of understanding the nature and objective 19740
of the proceedings against the defendant and of assisting in the 19741
defendant's defense. If, in the examiner's opinion, the defendant 19742
remains incapable of understanding the nature and objective of the 19743
proceedings against the defendant and of assisting in the 19744
defendant's defense and there is a substantial probability that 19745
the defendant will become capable of understanding the nature and 19746
objective of the proceedings against the defendant and of 19747
assisting in the defendant's defense if the defendant is provided 19748
with a course of treatment, if in the examiner's opinion the 19749
defendant remains mentally ill or mentally retarded, and if the 19750
maximum time for treatment as specified in division (C) of this 19751
section has not expired, the report also shall contain the 19752
examiner's recommendation as to the least restrictive placement or 19753
commitment alternative that is consistent with the defendant's 19754
treatment needs for restoration to competency and with the safety 19755
of the community. The court shall provide copies of the report to 19756
the prosecutor and defense counsel. 19757

(H) If a defendant is committed pursuant to division (B)(1) 19758
of this section, within ten days after the treating physician of 19759
the defendant or the examiner of the defendant who is employed or 19760

retained by the treating facility advises that there is not a 19761
substantial probability that the defendant will become capable of 19762
understanding the nature and objective of the proceedings against 19763
the defendant or of assisting in the defendant's defense even if 19764
the defendant is provided with a course of treatment, within ten 19765
days after the expiration of the maximum time for treatment as 19766
specified in division (C) of this section, within ten days after 19767
the expiration of the maximum time for continuing evaluation and 19768
treatment as specified in division (B)(1)(a) of this section, 19769
within thirty days after a defendant's request for a hearing that 19770
is made after six months of treatment, or within thirty days after 19771
being advised by the treating physician or examiner that the 19772
defendant is competent to stand trial, whichever is the earliest, 19773
the court shall conduct another hearing to determine if the 19774
defendant is competent to stand trial and shall do whichever of 19775
the following is applicable: 19776

(1) If the court finds that the defendant is competent to 19777
stand trial, the defendant shall be proceeded against as provided 19778
by law. 19779

(2) If the court finds that the defendant is incompetent to 19780
stand trial, but that there is a substantial probability that the 19781
defendant will become competent to stand trial if the defendant is 19782
provided with a course of treatment, and the maximum time for 19783
treatment as specified in division (C) of this section has not 19784
expired, the court, after consideration of the examiner's 19785
recommendation, shall order that treatment be continued, may 19786
change the ~~least restrictive limitations on the defendant's~~ 19787
~~freedom of movement~~ facility or program at which the treatment is 19788
to be continued, and, ~~if applicable~~, shall specify whether the 19789
treatment ~~for developmental disabilities~~ is to be continued at the 19790
same or a different facility or ~~institution~~ program. 19791

(3) If the court finds that the defendant is incompetent to 19792

stand trial, if the defendant is charged with an offense listed in 19793
division (C)(1) of this section, and if the court finds that there 19794
is not a substantial probability that the defendant will become 19795
competent to stand trial even if the defendant is provided with a 19796
course of treatment, or if the maximum time for treatment relative 19797
to that offense as specified in division (C) of this section has 19798
expired, further proceedings shall be as provided in sections 19799
2945.39, 2945.401, and 2945.402 of the Revised Code. 19800

(4) If the court finds that the defendant is incompetent to 19801
stand trial, if the most serious offense with which the defendant 19802
is charged is a misdemeanor or a felony other than a felony listed 19803
in division (C)(1) of this section, and if the court finds that 19804
there is not a substantial probability that the defendant will 19805
become competent to stand trial even if the defendant is provided 19806
with a course of treatment, or if the maximum time for treatment 19807
relative to that offense as specified in division (C) of this 19808
section has expired, the court shall dismiss the indictment, 19809
information, or complaint against the defendant. A dismissal under 19810
this division is not a bar to further prosecution based on the 19811
same conduct. The court shall discharge the defendant unless the 19812
court or prosecutor files an affidavit in probate court for civil 19813
commitment pursuant to Chapter 5122. or 5123. of the Revised Code. 19814
If an affidavit for civil commitment is filed, the court may 19815
detain the defendant for ten days pending civil commitment. All of 19816
the following provisions apply to persons charged with a 19817
misdemeanor or a felony other than a felony listed in division 19818
(C)(1) of this section who are committed by the probate court 19819
subsequent to the court's or prosecutor's filing of an affidavit 19820
for civil commitment under authority of this division: 19821

(a) The chief clinical officer of the entity, hospital, or 19822
facility, the managing officer of the institution, the director of 19823
the program, or the person to which the defendant is committed or 19824

admitted shall do all of the following: 19825

(i) Notify the prosecutor, in writing, of the discharge of 19826
the defendant, send the notice at least ten days prior to the 19827
discharge unless the discharge is by the probate court, and state 19828
in the notice the date on which the defendant will be discharged; 19829

(ii) Notify the prosecutor, in writing, when the defendant is 19830
absent without leave or is granted unsupervised, off-grounds 19831
movement, and send this notice promptly after the discovery of the 19832
absence without leave or prior to the granting of the 19833
unsupervised, off-grounds movement, whichever is applicable; 19834

(iii) Notify the prosecutor, in writing, of the change of the 19835
defendant's commitment or admission to voluntary status, send the 19836
notice promptly upon learning of the change to voluntary status, 19837
and state in the notice the date on which the defendant was 19838
committed or admitted on a voluntary status. 19839

(b) Upon receiving notice that the defendant will be granted 19840
unsupervised, off-grounds movement, the prosecutor either shall 19841
re-indict the defendant or promptly notify the court that the 19842
prosecutor does not intend to prosecute the charges against the 19843
defendant. 19844

(I) If a defendant is convicted of a crime and sentenced to a 19845
jail or workhouse, the defendant's sentence shall be reduced by 19846
the total number of days the defendant is confined for evaluation 19847
to determine the defendant's competence to stand trial or 19848
treatment under this section and sections 2945.37 and 2945.371 of 19849
the Revised Code or by the total number of days the defendant is 19850
confined for evaluation to determine the defendant's mental 19851
condition at the time of the offense charged. 19852

Sec. 2945.39. (A) If a defendant who is charged with an 19853
offense described in division (C)(1) of section 2945.38 of the 19854

Revised Code is found incompetent to stand trial, after the 19855
expiration of the maximum time for treatment as specified in 19856
division (C) of that section or after the court finds that there 19857
is not a substantial probability that the defendant will become 19858
competent to stand trial even if the defendant is provided with a 19859
course of treatment, one of the following applies: 19860

(1) The court or the prosecutor may file an affidavit in 19861
probate court for civil commitment of the defendant in the manner 19862
provided in Chapter 5122. or 5123. of the Revised Code. If the 19863
court or prosecutor files an affidavit for civil commitment, the 19864
court may detain the defendant for ten days pending civil 19865
commitment. If the probate court commits the defendant subsequent 19866
to the court's or prosecutor's filing of an affidavit for civil 19867
commitment, the chief clinical officer of the entity, hospital, or 19868
facility, the managing officer of the institution, the director of 19869
the program, or the person to which the defendant is committed or 19870
admitted shall send to the prosecutor the notices described in 19871
divisions (H)(4)(a)(i) to (iii) of section 2945.38 of the Revised 19872
Code within the periods of time and under the circumstances 19873
specified in those divisions. 19874

(2) On the motion of the prosecutor or on its own motion, the 19875
court may retain jurisdiction over the defendant if, at a hearing, 19876
the court finds both of the following by clear and convincing 19877
evidence: 19878

(a) The defendant committed the offense with which the 19879
defendant is charged. 19880

(b) The defendant is a mentally ill person subject to 19881
hospitalization by court order or a mentally retarded person 19882
subject to institutionalization by court order. 19883

(B) In making its determination under division (A)(2) of this 19884
section as to whether to retain jurisdiction over the defendant, 19885

the court may consider all relevant evidence, including, but not 19886
limited to, any relevant psychiatric, psychological, or medical 19887
testimony or reports, the acts constituting the offense charged, 19888
and any history of the defendant that is relevant to the 19889
defendant's ability to conform to the law. 19890

(C) If the court conducts a hearing as described in division 19891
(A)(2) of this section and if the court does not make both 19892
findings described in divisions (A)(2)(a) and (b) of this section 19893
by clear and convincing evidence, the court shall dismiss the 19894
indictment, information, or complaint against the defendant. Upon 19895
the dismissal, the court shall discharge the defendant unless the 19896
court or prosecutor files an affidavit in probate court for civil 19897
commitment of the defendant pursuant to Chapter 5122. or 5123. of 19898
the Revised Code. If the court or prosecutor files an affidavit 19899
for civil commitment, the court may order that the defendant be 19900
detained for up to ten days pending the civil commitment. If the 19901
probate court commits the defendant subsequent to the court's or 19902
prosecutor's filing of an affidavit for civil commitment, the 19903
chief clinical officer of the entity, hospital, or facility, the 19904
managing officer of the institution, the director of the program, 19905
or the person to which the defendant is committed or admitted 19906
shall send to the prosecutor the notices described in divisions 19907
(H)(4)(a)(i) to (iii) of section 2945.38 of the Revised Code 19908
within the periods of time and under the circumstances specified 19909
in those divisions. A dismissal of charges under this division is 19910
not a bar to further criminal proceedings based on the same 19911
conduct. 19912

(D)(1) If the court conducts a hearing as described in 19913
division (A)(2) of this section and if the court makes the 19914
findings described in divisions (A)(2)(a) and (b) of this section 19915
by clear and convincing evidence, the court shall commit the 19916
defendant, if determined to require mental health treatment, 19917

either to the department of mental health for treatment at a 19918
hospital, facility, or agency as determined clinically appropriate 19919
by the department of mental health or to another medical or 19920
psychiatric facility, as appropriate. Prior to placing the 19921
defendant, the department of mental health shall obtain court 19922
approval for that placement. If the court conducts such a hearing 19923
and if it makes those findings by clear and convincing evidence, 19924
the court shall commit the defendant, if determined to require 19925
treatment for ~~developmental disabilities~~ mental retardation, to a 19926
facility operated by the department of developmental disabilities, 19927
or another facility, as appropriate. ~~In committing the defendant~~ 19928
~~to the department of mental health, the court shall specify the~~ 19929
~~least restrictive limitations on the defendant's freedom of~~ 19930
~~movement determined to be necessary to protect public safety. In~~ 19931
~~determining the place and nature of the commitment to a facility~~ 19932
~~operated by the department of developmental disabilities or~~ 19933
~~another facility for treatment of developmental disabilities, the~~ 19934
~~court~~ In determining the place of commitment, the court shall 19935
consider the extent to which the person is a danger to the person 19936
and to others, the need for security, and the type of crime 19937
involved and shall order the least restrictive ~~commitment~~ 19938
alternative available that is consistent with public safety and 19939
the welfare of the defendant. In weighing these factors, the court 19940
shall give preference to protecting public safety. 19941

(2) If a court makes a commitment of a defendant under 19942
division (D)(1) of this section, the prosecutor shall send to the 19943
hospital, facility, or agency where the defendant is placed by the 19944
department of mental health or to the defendant's place of 19945
commitment all reports of the defendant's current mental condition 19946
and, except as otherwise provided in this division, any other 19947
relevant information, including, but not limited to, a transcript 19948
of the hearing held pursuant to division (A)(2) of this section, 19949
copies of relevant police reports, and copies of any prior arrest 19950

and conviction records that pertain to the defendant and that the prosecutor possesses. The prosecutor shall send the reports of the defendant's current mental condition in every case of commitment, and, unless the prosecutor determines that the release of any of the other relevant information to unauthorized persons would interfere with the effective prosecution of any person or would create a substantial risk of harm to any person, the prosecutor also shall send the other relevant information. Upon admission of a defendant committed under division (D)(1) of this section, the place of commitment shall send to the board of alcohol, drug addiction, and mental health services or the community mental health board serving the county in which the charges against the defendant were filed a copy of all reports of the defendant's current mental condition and a copy of the other relevant information provided by the prosecutor under this division, including, if provided, a transcript of the hearing held pursuant to division (A)(2) of this section, the relevant police reports, and the prior arrest and conviction records that pertain to the defendant and that the prosecutor possesses.

(3) If a court makes a commitment under division (D)(1) of this section, all further proceedings shall be in accordance with sections 2945.401 and 2945.402 of the Revised Code.

Sec. 2945.40. (A) If a person is found not guilty by reason of insanity, the verdict shall state that finding, and the trial court shall conduct a full hearing to determine whether the person is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order. Prior to the hearing, if the trial judge believes that there is probable cause that the person found not guilty by reason of insanity is a mentally ill person subject to hospitalization by court order or mentally retarded person subject to institutionalization by court order, the trial judge may issue

a temporary order of detention for that person to remain in effect 19983
for ten court days or until the hearing, whichever occurs first. 19984

Any person detained pursuant to a temporary order of 19985
detention issued under this division shall be held in a suitable 19986
facility, taking into consideration the place and type of 19987
confinement prior to and during trial. 19988

(B) The court shall hold the hearing under division (A) of 19989
this section to determine whether the person found not guilty by 19990
reason of insanity is a mentally ill person subject to 19991
hospitalization by court order or a mentally retarded person 19992
subject to institutionalization by court order within ten court 19993
days after the finding of not guilty by reason of insanity. 19994
Failure to conduct the hearing within the ten-day period shall 19995
cause the immediate discharge of the respondent, unless the judge 19996
grants a continuance for not longer than ten court days for good 19997
cause shown or for any period of time upon motion of the 19998
respondent. 19999

(C) If a person is found not guilty by reason of insanity, 20000
the person has the right to attend all hearings conducted pursuant 20001
to sections 2945.37 to 2945.402 of the Revised Code. At any 20002
hearing conducted pursuant to one of those sections, the court 20003
shall inform the person that the person has all of the following 20004
rights: 20005

(1) The right to be represented by counsel and to have that 20006
counsel provided at public expense if the person is indigent, with 20007
the counsel to be appointed by the court under Chapter 120. of the 20008
Revised Code or under the authority recognized in division (C) of 20009
section 120.06, division (E) of section 120.16, division (E) of 20010
section 120.26, or section 2941.51 of the Revised Code; 20011

(2) The right to have independent expert evaluation and to 20012
have that independent expert evaluation provided at public expense 20013

if the person is indigent; 20014

(3) The right to subpoena witnesses and documents, to present 20015
evidence on the person's behalf, and to cross-examine witnesses 20016
against the person; 20017

(4) The right to testify in the person's own behalf and to 20018
not be compelled to testify; 20019

(5) The right to have copies of any relevant medical or 20020
mental health document in the custody of the state or of any place 20021
of commitment other than a document for which the court finds that 20022
the release to the person of information contained in the document 20023
would create a substantial risk of harm to any person. 20024

(D) The hearing under division (A) of this section shall be 20025
open to the public, and the court shall conduct the hearing in 20026
accordance with the Rules of Civil Procedure. The court shall make 20027
and maintain a full transcript and record of the hearing 20028
proceedings. The court may consider all relevant evidence, 20029
including, but not limited to, any relevant psychiatric, 20030
psychological, or medical testimony or reports, the acts 20031
constituting the offense in relation to which the person was found 20032
not guilty by reason of insanity, and any history of the person 20033
that is relevant to the person's ability to conform to the law. 20034

(E) Upon completion of the hearing under division (A) of this 20035
section, if the court finds there is not clear and convincing 20036
evidence that the person is a mentally ill person subject to 20037
hospitalization by court order or a mentally retarded person 20038
subject to institutionalization by court order, the court shall 20039
discharge the person, unless a detainer has been placed upon the 20040
person by the department of rehabilitation and correction, in 20041
which case the person shall be returned to that department. 20042

(F) If, at the hearing under division (A) of this section, 20043
the court finds by clear and convincing evidence that the person 20044

is a mentally ill person subject to hospitalization by court 20045
order, the court shall commit the person either to the department 20046
of mental health for ~~placement~~ treatment in a hospital, facility, 20047
or agency as determined clinically appropriate by the department 20048
of mental health or to another medical or psychiatric facility, as 20049
appropriate. Prior to placing the defendant, the department of 20050
mental health shall obtain court approval for that placement. If, 20051
at the hearing under division (A) of this section, the court ~~finds~~ 20052
determines by clear and convincing evidence that the person ~~is a~~ 20053
~~mentally retarded person subject to institutionalization by court~~ 20054
~~order~~ requires treatment for mental retardation, it shall commit 20055
the person to a facility operated by the department of 20056
developmental disabilities or another facility, as appropriate. 20057
Further proceedings shall be in accordance with sections 2945.401 20058
and 2945.402 of the Revised Code. ~~In committing the person to the~~ 20059
~~department of mental health, the court shall specify the least~~ 20060
~~restrictive limitations to the defendant's freedom of movement~~ 20061
~~determined to be necessary to protect public safety.~~ In 20062
determining the place ~~and nature of the commitment of a mentally~~ 20063
~~retarded person subject to institutionalization by court order,~~ 20064
the court shall consider the extent to which the person is a 20065
danger to the person and to others, the need for security, and the 20066
type of crime involved and shall order the least restrictive 20067
~~commitment~~ alternative available that is consistent with public 20068
safety and the welfare of the person. In weighing these factors, 20069
the court shall give preference to protecting public safety. 20070

(G) If a court makes a commitment of a person under division 20071
(F) of this section, the prosecutor shall send to the hospital, 20072
facility, or agency where the person is placed by the department 20073
of mental health or to the defendant's place of commitment all 20074
reports of the person's current mental condition, and, except as 20075
otherwise provided in this division, any other relevant 20076
information, including, but not limited to, a transcript of the 20077

hearing held pursuant to division (A) of this section, copies of 20078
relevant police reports, and copies of any prior arrest and 20079
conviction records that pertain to the person and that the 20080
prosecutor possesses. The prosecutor shall send the reports of the 20081
person's current mental condition in every case of commitment, 20082
and, unless the prosecutor determines that the release of any of 20083
the other relevant information to unauthorized persons would 20084
interfere with the effective prosecution of any person or would 20085
create a substantial risk of harm to any person, the prosecutor 20086
also shall send the other relevant information. Upon admission of 20087
a person committed under division (F) of this section, the place 20088
of commitment shall send to the board of alcohol, drug addiction, 20089
and mental health services or the community mental health board 20090
serving the county in which the charges against the person were 20091
filed a copy of all reports of the person's current mental 20092
condition and a copy of the other relevant information provided by 20093
the prosecutor under this division, including, if provided, a 20094
transcript of the hearing held pursuant to division (A) of this 20095
section, the relevant police reports, and the prior arrest and 20096
conviction records that pertain to the person and that the 20097
prosecutor possesses. 20098

(H) A person who is committed pursuant to this section shall 20099
not voluntarily admit the person or be voluntarily admitted to a 20100
hospital or institution pursuant to section 5122.02, 5122.15, 20101
5123.69, or 5123.76 of the Revised Code. 20102

Sec. 2945.401. (A) A defendant found incompetent to stand 20103
trial and committed pursuant to section 2945.39 of the Revised 20104
Code or a person found not guilty by reason of insanity and 20105
committed pursuant to section 2945.40 of the Revised Code shall 20106
remain subject to the jurisdiction of the trial court pursuant to 20107
that commitment, and to the provisions of this section, until the 20108
final termination of the commitment as described in division 20109

(J)(1) of this section. If the jurisdiction is terminated under 20110
this division because of the final termination of the commitment 20111
resulting from the expiration of the maximum prison term or term 20112
of imprisonment described in division (J)(1)(b) of this section, 20113
the court or prosecutor may file an affidavit for the civil 20114
commitment of the defendant or person pursuant to Chapter 5122. or 20115
5123. of the Revised Code. 20116

(B) A hearing conducted under any provision of sections 20117
2945.37 to 2945.402 of the Revised Code shall not be conducted in 20118
accordance with Chapters 5122. and 5123. of the Revised Code. Any 20119
person who is committed pursuant to section 2945.39 or 2945.40 of 20120
the Revised Code shall not voluntarily admit the person or be 20121
voluntarily admitted to a hospital or institution pursuant to 20122
section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 20123
All other provisions of Chapters 5122. and 5123. of the Revised 20124
Code regarding hospitalization or institutionalization shall apply 20125
to the extent they are not in conflict with this chapter. A 20126
commitment under section 2945.39 or 2945.40 of the Revised Code 20127
shall not be terminated and the conditions of the commitment shall 20128
not be changed except as otherwise provided in division (D)(2) of 20129
this section with respect to a mentally retarded person subject to 20130
institutionalization by court order or except by order of the 20131
trial court. 20132

(C) The department of mental health or the institution ~~or~~ 20133
facility, or program to which a defendant or person has been 20134
committed under section 2945.39 or 2945.40 of the Revised Code 20135
shall report in writing to the trial court, at the times specified 20136
in this division, as to whether the defendant or person remains a 20137
mentally ill person subject to hospitalization by court order or a 20138
mentally retarded person subject to institutionalization by court 20139
order and, in the case of a defendant committed under section 20140
2945.39 of the Revised Code, as to whether the defendant remains 20141

incompetent to stand trial. The department, institution, ~~or~~ 20142
facility, or program shall make the reports after the initial six 20143
months of treatment and every two years after the initial report 20144
is made. The trial court shall provide copies of the reports to 20145
the prosecutor and to the counsel for the defendant or person. 20146
Within thirty days after its receipt pursuant to this division of 20147
a report from the department, institution, ~~or~~ facility, or 20148
program, the trial court shall hold a hearing on the continued 20149
commitment of the defendant or person or on any changes in the 20150
conditions of the commitment of the defendant or person. The 20151
defendant or person may request a change in the conditions of 20152
confinement, and the trial court shall conduct a hearing on that 20153
request if six months or more have elapsed since the most recent 20154
hearing was conducted under this section. 20155

(D)(1) Except as otherwise provided in division (D)(2) of 20156
this section, when a defendant or person has been committed under 20157
section 2945.39 or 2945.40 of the Revised Code, at any time after 20158
evaluating the risks to public safety and the welfare of the 20159
defendant or person, the designee of the department of mental 20160
health or the managing officer of the institution or director of 20161
the facility or program to which the defendant or person is 20162
committed may recommend a termination of the defendant's or 20163
person's commitment or a change in the conditions of the 20164
defendant's or person's commitment. 20165

Except as otherwise provided in division (D)(2) of this 20166
section, if the designee of the department of mental health 20167
recommends on-grounds unsupervised movement, off-grounds 20168
supervised movement, or nonsecured status for the defendant or 20169
person or termination of the defendant's or person's commitment, 20170
the following provisions apply: 20171

(a) If the department's designee recommends on-grounds 20172
unsupervised movement or off-grounds supervised movement, the 20173

department's designee shall file with the trial court an 20174
application for approval of the movement and shall send a copy of 20175
the application to the prosecutor. Within fifteen days after 20176
receiving the application, the prosecutor may request a hearing on 20177
the application and, if a hearing is requested, shall so inform 20178
the department's designee. If the prosecutor does not request a 20179
hearing within the fifteen-day period, the trial court shall 20180
approve the application by entering its order approving the 20181
requested movement or, within five days after the expiration of 20182
the fifteen-day period, shall set a date for a hearing on the 20183
application. If the prosecutor requests a hearing on the 20184
application within the fifteen-day period, the trial court shall 20185
hold a hearing on the application within thirty days after the 20186
hearing is requested. If the trial court, within five days after 20187
the expiration of the fifteen-day period, sets a date for a 20188
hearing on the application, the trial court shall hold the hearing 20189
within thirty days after setting the hearing date. At least 20190
fifteen days before any hearing is held under this division, the 20191
trial court shall give the prosecutor written notice of the date, 20192
time, and place of the hearing. At the conclusion of each hearing 20193
conducted under this division, the trial court either shall 20194
approve or disapprove the application and shall enter its order 20195
accordingly. 20196

(b) If the department's designee recommends termination of 20197
the defendant's or person's commitment at any time or if the 20198
department's designee recommends the first of any nonsecured 20199
status for the defendant or person, the department's designee 20200
shall send written notice of this recommendation to the trial 20201
court and to the local forensic center. The local forensic center 20202
shall evaluate the committed defendant or person and, within 20203
thirty days after its receipt of the written notice, shall submit 20204
to the trial court and the department's designee a written report 20205
of the evaluation. The trial court shall provide a copy of the 20206

department's designee's written notice and of the local forensic 20207
center's written report to the prosecutor and to the counsel for 20208
the defendant or person. Upon the local forensic center's 20209
submission of the report to the trial court and the department's 20210
designee, all of the following apply: 20211

(i) If the forensic center disagrees with the recommendation 20212
of the department's designee, it shall inform the department's 20213
designee and the trial court of its decision and the reasons for 20214
the decision. The department's designee, after consideration of 20215
the forensic center's decision, shall either withdraw, proceed 20216
with, or modify and proceed with the recommendation. If the 20217
department's designee proceeds with, or modifies and proceeds 20218
with, the recommendation, the department's designee shall proceed 20219
in accordance with division (D)(1)(b)(iii) of this section. 20220

(ii) If the forensic center agrees with the recommendation of 20221
the department's designee, it shall inform the department's 20222
designee and the trial court of its decision and the reasons for 20223
the decision, and the department's designee shall proceed in 20224
accordance with division (D)(1)(b)(iii) of this section. 20225

(iii) If the forensic center disagrees with the 20226
recommendation of the department's designee and the department's 20227
designee proceeds with, or modifies and proceeds with, the 20228
recommendation or if the forensic center agrees with the 20229
recommendation of the department's designee, the department's 20230
designee shall work with community mental health agencies, 20231
programs, facilities, or boards of alcohol, drug addiction, and 20232
mental health services or community mental health boards to 20233
develop a plan to implement the recommendation. If the defendant 20234
or person is on medication, the plan shall include, but shall not 20235
be limited to, a system to monitor the defendant's or person's 20236
compliance with the prescribed medication treatment plan. The 20237
system shall include a schedule that clearly states when the 20238

defendant or person shall report for a medication compliance 20239
check. The medication compliance checks shall be based upon the 20240
effective duration of the prescribed medication, taking into 20241
account the route by which it is taken, and shall be scheduled at 20242
intervals sufficiently close together to detect a potential 20243
increase in mental illness symptoms that the medication is 20244
intended to prevent. 20245

The department's designee, after consultation with the board 20246
of alcohol, drug addiction, and mental health services or the 20247
community mental health board serving the area, shall send the 20248
recommendation and plan developed under division (D)(1)(b)(iii) of 20249
this section, in writing, to the trial court, the prosecutor, and 20250
the counsel for the committed defendant or person. The trial court 20251
shall conduct a hearing on the recommendation and plan developed 20252
under division (D)(1)(b)(iii) of this section. Divisions (D)(1)(c) 20253
and (d) and (E) to (J) of this section apply regarding the 20254
hearing. 20255

(c) If the department's designee's recommendation is for 20256
nonsecured status or termination of commitment, the prosecutor may 20257
obtain an independent expert evaluation of the defendant's or 20258
person's mental condition, and the trial court may continue the 20259
hearing on the recommendation for a period of not more than thirty 20260
days to permit time for the evaluation. 20261

The prosecutor may introduce the evaluation report or present 20262
other evidence at the hearing in accordance with the Rules of 20263
Evidence. 20264

(d) The trial court shall schedule the hearing on a 20265
department's designee's recommendation for nonsecured status or 20266
termination of commitment and shall give reasonable notice to the 20267
prosecutor and the counsel for the defendant or person. Unless 20268
continued for independent evaluation at the prosecutor's request 20269
or for other good cause, the hearing shall be held within thirty 20270

days after the trial court's receipt of the recommendation and 20271
plan. 20272

(2)(a) Division (D)(1) of this section does not apply to 20273
on-grounds unsupervised movement of a defendant or person who has 20274
been committed under section 2945.39 or 2945.40 of the Revised 20275
Code, who is a mentally retarded person subject to 20276
institutionalization by court order, and who is being provided 20277
residential habilitation, care, and treatment in a facility 20278
operated by the department of developmental disabilities. 20279

(b) If, pursuant to section 2945.39 of the Revised Code, the 20280
trial court commits a defendant who is found incompetent to stand 20281
trial and who is a mentally retarded person subject to 20282
institutionalization by court order, if the defendant is being 20283
provided residential habilitation, care, and treatment in a 20284
facility operated by the department of developmental disabilities, 20285
if an individual who is conducting a survey for the department of 20286
health to determine the facility's compliance with the 20287
certification requirements of the medicaid program under Chapter 20288
5111. of the Revised Code and Title XIX of the "Social Security 20289
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, cites the 20290
defendant's receipt of the residential habilitation, care, and 20291
treatment in the facility as being inappropriate under the 20292
certification requirements, if the defendant's receipt of the 20293
residential habilitation, care, and treatment in the facility 20294
potentially jeopardizes the facility's continued receipt of 20295
federal medicaid moneys, and if as a result of the citation the 20296
chief clinical officer of the facility determines that the 20297
conditions of the defendant's commitment should be changed, the 20298
department of developmental disabilities may cause the defendant 20299
to be removed from the particular facility and, after evaluating 20300
the risks to public safety and the welfare of the defendant and 20301
after determining whether another type of placement is consistent 20302

with the certification requirements, may place the defendant in 20303
another facility that the department selects as an appropriate 20304
facility for the defendant's continued receipt of residential 20305
habilitation, care, and treatment and that is a no less secure 20306
setting than the facility in which the defendant had been placed 20307
at the time of the citation. Within three days after the 20308
defendant's removal and alternative placement under the 20309
circumstances described in division (D)(2)(b) of this section, the 20310
department of developmental disabilities shall notify the trial 20311
court and the prosecutor in writing of the removal and alternative 20312
placement. 20313

The trial court shall set a date for a hearing on the removal 20314
and alternative placement, and the hearing shall be held within 20315
twenty-one days after the trial court's receipt of the notice from 20316
the department of developmental disabilities. At least ten days 20317
before the hearing is held, the trial court shall give the 20318
prosecutor, the department of developmental disabilities, and the 20319
counsel for the defendant written notice of the date, time, and 20320
place of the hearing. At the hearing, the trial court shall 20321
consider the citation issued by the individual who conducted the 20322
survey for the department of health to be prima-facie evidence of 20323
the fact that the defendant's commitment to the particular 20324
facility was inappropriate under the certification requirements of 20325
the medicaid program under Chapter 5111. of the Revised Code and 20326
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 20327
U.S.C.A. 301, as amended, and potentially jeopardizes the 20328
particular facility's continued receipt of federal medicaid 20329
moneys. At the conclusion of the hearing, the trial court may 20330
approve or disapprove the defendant's removal and alternative 20331
placement. If the trial court approves the defendant's removal and 20332
alternative placement, the department of developmental 20333
disabilities may continue the defendant's alternative placement. 20334
If the trial court disapproves the defendant's removal and 20335

alternative placement, it shall enter an order modifying the 20336
defendant's removal and alternative placement, but that order 20337
shall not require the department of developmental disabilities to 20338
replace the defendant for purposes of continued residential 20339
habilitation, care, and treatment in the facility associated with 20340
the citation issued by the individual who conducted the survey for 20341
the department of health. 20342

(E) In making a determination under this section regarding 20343
nonsecured status or termination of commitment, the trial court 20344
shall consider all relevant factors, including, but not limited 20345
to, all of the following: 20346

(1) Whether, in the trial court's view, the defendant or 20347
person currently represents a substantial risk of physical harm to 20348
the defendant or person or others; 20349

(2) Psychiatric and medical testimony as to the current 20350
mental and physical condition of the defendant or person; 20351

(3) Whether the defendant or person has insight into the 20352
~~defendant's~~ defendant's or person's condition so that the 20353
defendant or person will continue treatment as prescribed or seek 20354
professional assistance as needed; 20355

(4) The grounds upon which the state relies for the proposed 20356
commitment; 20357

(5) Any past history that is relevant to establish the 20358
defendant's or person's degree of conformity to the laws, rules, 20359
regulations, and values of society; 20360

(6) If there is evidence that the defendant's or person's 20361
mental illness is in a state of remission, the medically suggested 20362
cause and degree of the remission and the probability that the 20363
defendant or person will continue treatment to maintain the 20364
remissive state of the defendant's or person's illness should the 20365
defendant's or person's commitment conditions be altered. 20366

(F) At any hearing held pursuant to division (C) or (D)(1) or 20367
(2) of this section, the defendant or the person shall have all 20368
the rights of a defendant or person at a commitment hearing as 20369
described in section 2945.40 of the Revised Code. 20370

(G) In a hearing held pursuant to division (C) or (D)(1) of 20371
this section, the prosecutor has the burden of proof as follows: 20372

(1) For a recommendation of termination of commitment, to 20373
show by clear and convincing evidence that the defendant or person 20374
remains a mentally ill person subject to hospitalization by court 20375
order or a mentally retarded person subject to 20376
institutionalization by court order; 20377

(2) For a recommendation for a change in the conditions of 20378
the commitment to a less restrictive status, to show by clear and 20379
convincing evidence that the proposed change represents a threat 20380
to public safety or a threat to the safety of any person. 20381

(H) In a hearing held pursuant to division (C) or (D)(1) or 20382
(2) of this section, the prosecutor shall represent the state or 20383
the public interest. 20384

(I) At the conclusion of a hearing conducted under division 20385
(D)(1) of this section regarding a recommendation from the 20386
designee of the department of mental health, managing officer of 20387
the institution, or director of a facility or program, the trial 20388
court may approve, disapprove, or modify the recommendation and 20389
shall enter an order accordingly. 20390

(J)(1) A defendant or person who has been committed pursuant 20391
to section 2945.39 or 2945.40 of the Revised Code continues to be 20392
under the jurisdiction of the trial court until the final 20393
termination of the commitment. For purposes of division (J) of 20394
this section, the final termination of a commitment occurs upon 20395
the earlier of one of the following: 20396

(a) The defendant or person no longer is a mentally ill 20397

person subject to hospitalization by court order or a mentally 20398
retarded person subject to institutionalization by court order, as 20399
determined by the trial court; 20400

(b) The expiration of the maximum prison term or term of 20401
imprisonment that the defendant or person could have received if 20402
the defendant or person had been convicted of the most serious 20403
offense with which the defendant or person is charged or in 20404
relation to which the defendant or person was found not guilty by 20405
reason of insanity; 20406

(c) The trial court enters an order terminating the 20407
commitment under the circumstances described in division 20408
(J)(2)(a)(ii) of this section. 20409

(2)(a) If a defendant is found incompetent to stand trial and 20410
committed pursuant to section 2945.39 of the Revised Code, if 20411
neither of the circumstances described in divisions (J)(1)(a) and 20412
(b) of this section applies to that defendant, and if a report 20413
filed with the trial court pursuant to division (C) of this 20414
section indicates that the defendant presently is competent to 20415
stand trial or if, at any other time during the period of the 20416
defendant's commitment, the prosecutor, the counsel for the 20417
defendant, or the designee of the department of mental health or 20418
the managing officer of the institution or director of the 20419
facility or program to which the defendant is committed files an 20420
application with the trial court alleging that the defendant 20421
presently is competent to stand trial and requesting a hearing on 20422
the competency issue or the trial court otherwise has reasonable 20423
cause to believe that the defendant presently is competent to 20424
stand trial and determines on its own motion to hold a hearing on 20425
the competency issue, the trial court shall schedule a hearing on 20426
the competency of the defendant to stand trial, shall give the 20427
prosecutor, the counsel for the defendant, and the department's 20428
designee or the managing officer of the institution or the 20429

director of the facility to which the defendant is committed 20430
notice of the date, time, and place of the hearing at least 20431
fifteen days before the hearing, and shall conduct the hearing 20432
within thirty days of the filing of the application or of its own 20433
motion. If, at the conclusion of the hearing, the trial court 20434
determines that the defendant presently is capable of 20435
understanding the nature and objective of the proceedings against 20436
the defendant and of assisting in the defendant's defense, the 20437
trial court shall order that the defendant is competent to stand 20438
trial and shall be proceeded against as provided by law with 20439
respect to the applicable offenses described in division (C)(1) of 20440
section 2945.38 of the Revised Code and shall enter whichever of 20441
the following additional orders is appropriate: 20442

(i) If the trial court determines that the defendant remains 20443
a mentally ill person subject to hospitalization by court order or 20444
a mentally retarded person subject to institutionalization by 20445
court order, the trial court shall order that the defendant's 20446
commitment to the department of mental health or to an institution 20447
~~or, facility, or program~~ for the treatment of ~~developmental~~ 20448
~~disabilities~~ mental retardation be continued during the pendency 20449
of the trial on the applicable offenses described in division 20450
(C)(1) of section 2945.38 of the Revised Code. 20451

(ii) If the trial court determines that the defendant no 20452
longer is a mentally ill person subject to hospitalization by 20453
court order or a mentally retarded person subject to 20454
institutionalization by court order, the trial court shall order 20455
that the defendant's commitment to the department of mental health 20456
or to an institution ~~or, facility, or program~~ for the treatment of 20457
~~developmental disabilities~~ mental retardation shall not be 20458
continued during the pendency of the trial on the applicable 20459
offenses described in division (C)(1) of section 2945.38 of the 20460
Revised Code. This order shall be a final termination of the 20461

commitment for purposes of division (J)(1)(c) of this section. 20462

(b) If, at the conclusion of the hearing described in 20463
division (J)(2)(a) of this section, the trial court determines 20464
that the defendant remains incapable of understanding the nature 20465
and objective of the proceedings against the defendant or of 20466
assisting in the defendant's defense, the trial court shall order 20467
that the defendant continues to be incompetent to stand trial, 20468
that the defendant's commitment to the department of mental health 20469
or to an institution ~~or~~, facility, or program for the treatment of 20470
~~developmental disabilities~~ mental retardation shall be continued, 20471
and that the defendant remains subject to the jurisdiction of the 20472
trial court pursuant to that commitment, and to the provisions of 20473
this section, until the final termination of the commitment as 20474
described in division (J)(1) of this section. 20475

Sec. 2953.32. (A)(1) Except as provided in section 2953.61 of 20476
the Revised Code, a first offender may apply to the sentencing 20477
court if convicted in this state, or to a court of common pleas if 20478
convicted in another state or in a federal court, for the sealing 20479
of the conviction record. Application may be made at the 20480
expiration of three years after the offender's final discharge if 20481
convicted of a felony, or at the expiration of one year after the 20482
offender's final discharge if convicted of a misdemeanor. 20483

(2) Any person who has been arrested for any misdemeanor 20484
offense and who has effected a bail forfeiture may apply to the 20485
court in which the misdemeanor criminal case was pending when bail 20486
was forfeited for the sealing of the record of the case. Except as 20487
provided in section 2953.61 of the Revised Code, the application 20488
may be filed at any time after the expiration of one year from the 20489
date on which the bail forfeiture was entered upon the minutes of 20490
the court or the journal, whichever entry occurs first. 20491

(B) Upon the filing of an application under this section, the 20492

court shall set a date for a hearing and shall notify the 20493
prosecutor for the case of the hearing on the application. The 20494
prosecutor may object to the granting of the application by filing 20495
an objection with the court prior to the date set for the hearing. 20496
The prosecutor shall specify in the objection the reasons for 20497
believing a denial of the application is justified. The court 20498
shall direct its regular probation officer, a state probation 20499
officer, or the department of probation of the county in which the 20500
applicant resides to make inquiries and written reports as the 20501
court requires concerning the applicant. 20502

(C)(1) The court shall do each of the following: 20503

(a) Determine whether the applicant is a first offender or 20504
whether the forfeiture of bail was agreed to by the applicant and 20505
the prosecutor in the case. If the applicant applies as a first 20506
offender pursuant to division (A)(1) of this section and has two 20507
or three convictions that result from the same indictment, 20508
information, or complaint, from the same plea of guilty, or from 20509
the same official proceeding, and result from related criminal 20510
acts that were committed within a three-month period but do not 20511
result from the same act or from offenses committed at the same 20512
time, in making its determination under this division, the court 20513
initially shall determine whether it is not in the public interest 20514
for the two or three convictions to be counted as one conviction. 20515
If the court determines that it is not in the public interest for 20516
the two or three convictions to be counted as one conviction, the 20517
court shall determine that the applicant is not a first offender; 20518
if the court does not make that determination, the court shall 20519
determine that the offender is a first offender. 20520

(b) Determine whether criminal proceedings are pending 20521
against the applicant; 20522

(c) If the applicant is a first offender who applies pursuant 20523
to division (A)(1) of this section, determine whether the 20524

applicant has been rehabilitated to the satisfaction of the court; 20525

(d) If the prosecutor has filed an objection in accordance 20526
with division (B) of this section, consider the reasons against 20527
granting the application specified by the prosecutor in the 20528
objection; 20529

(e) Weigh the interests of the applicant in having the 20530
records pertaining to the applicant's conviction sealed against 20531
the legitimate needs, if any, of the government to maintain those 20532
records. 20533

(2) If the court determines, after complying with division 20534
(C)(1) of this section, that the applicant is a first offender or 20535
the subject of a bail forfeiture, that no criminal proceeding is 20536
pending against the applicant, and that the interests of the 20537
applicant in having the records pertaining to the applicant's 20538
conviction or bail forfeiture sealed are not outweighed by any 20539
legitimate governmental needs to maintain those records, and that 20540
the rehabilitation of an applicant who is a first offender 20541
applying pursuant to division (A)(1) of this section has been 20542
attained to the satisfaction of the court, the court, except as 20543
provided in divisions (G) and (H) of this section, shall order all 20544
official records pertaining to the case sealed and, except as 20545
provided in division (F) of this section, all index references to 20546
the case deleted and, in the case of bail forfeitures, shall 20547
dismiss the charges in the case. The proceedings in the case shall 20548
be considered not to have occurred and the conviction or bail 20549
forfeiture of the person who is the subject of the proceedings 20550
shall be sealed, except that upon conviction of a subsequent 20551
offense, the sealed record of prior conviction or bail forfeiture 20552
may be considered by the court in determining the sentence or 20553
other appropriate disposition, including the relief provided for 20554
in sections 2953.31 to 2953.33 of the Revised Code. 20555

(3) Upon the filing of an application under this section, the 20556

applicant, unless indigent, shall pay a fee of fifty dollars. The 20557
court shall pay thirty dollars of the fee into the state treasury. 20558
It shall pay twenty dollars of the fee into the county general 20559
revenue fund if the sealed conviction or bail forfeiture was 20560
pursuant to a state statute, or into the general revenue fund of 20561
the municipal corporation involved if the sealed conviction or 20562
bail forfeiture was pursuant to a municipal ordinance. 20563

(D) Inspection of the sealed records included in the order 20564
may be made only by the following persons or for the following 20565
purposes: 20566

(1) By a law enforcement officer or prosecutor, or the 20567
assistants of either, to determine whether the nature and 20568
character of the offense with which a person is to be charged 20569
would be affected by virtue of the person's previously having been 20570
convicted of a crime; 20571

(2) By the parole or probation officer of the person who is 20572
the subject of the records, for the exclusive use of the officer 20573
in supervising the person while on parole or under a community 20574
control sanction or a post-release control sanction, and in making 20575
inquiries and written reports as requested by the court or adult 20576
parole authority; 20577

(3) Upon application by the person who is the subject of the 20578
records, by the persons named in the application; 20579

(4) By a law enforcement officer who was involved in the 20580
case, for use in the officer's defense of a civil action arising 20581
out of the officer's involvement in that case; 20582

(5) By a prosecuting attorney or the prosecuting attorney's 20583
assistants, to determine a defendant's eligibility to enter a 20584
pre-trial diversion program established pursuant to section 20585
2935.36 of the Revised Code; 20586

(6) By any law enforcement agency or any authorized employee 20587

of a law enforcement agency or by the department of rehabilitation 20588
and correction as part of a background investigation of a person 20589
who applies for employment with the agency as a law enforcement 20590
officer or with the department as a corrections officer; 20591

(7) By any law enforcement agency or any authorized employee 20592
of a law enforcement agency, for the purposes set forth in, and in 20593
the manner provided in, section 2953.321 of the Revised Code; 20594

(8) By the bureau of criminal identification and 20595
investigation or any authorized employee of the bureau for the 20596
purpose of providing information to a board or person pursuant to 20597
division (F) or (G) of section 109.57 of the Revised Code; 20598

(9) By the bureau of criminal identification and 20599
investigation or any authorized employee of the bureau for the 20600
purpose of performing a criminal history records check on a person 20601
to whom a certificate as prescribed in section 109.77 of the 20602
Revised Code is to be awarded; 20603

(10) By the bureau of criminal identification and 20604
investigation or any authorized employee of the bureau for the 20605
purpose of conducting a criminal records check of an individual 20606
pursuant to division (B) of section 109.572 of the Revised Code 20607
that was requested pursuant to any of the sections identified in 20608
division (B)(1) of that section; 20609

(11) By the bureau of criminal identification and 20610
investigation, an authorized employee of the bureau, a sheriff, or 20611
an authorized employee of a sheriff in connection with a criminal 20612
records check described in section 311.41 of the Revised Code; 20613

(12) By the attorney general or an authorized employee of the 20614
attorney general or a court for purposes of determining a person's 20615
classification pursuant to Chapter 2950. of the Revised Code; 20616

(13) By a prosecuting attorney or the attorney general, or 20617
the assistants of either, for purposes of defending a civil action 20618

brought pursuant to division (B)(1) of section 2743.48 of the 20619
Revised Code. 20620

When the nature and character of the offense with which a 20621
person is to be charged would be affected by the information, it 20622
may be used for the purpose of charging the person with an 20623
offense. 20624

(E) In any criminal proceeding, proof of any otherwise 20625
admissible prior conviction may be introduced and proved, 20626
notwithstanding the fact that for any such prior conviction an 20627
order of sealing previously was issued pursuant to sections 20628
2953.31 to 2953.36 of the Revised Code. 20629

(F) The person or governmental agency, office, or department 20630
that maintains sealed records pertaining to convictions or bail 20631
forfeitures that have been sealed pursuant to this section may 20632
maintain a manual or computerized index to the sealed records. The 20633
index shall contain only the name of, and alphanumeric identifiers 20634
that relate to, the persons who are the subject of the sealed 20635
records, the word "sealed," and the name of the person, agency, 20636
office, or department that has custody of the sealed records, and 20637
shall not contain the name of the crime committed. The index shall 20638
be made available by the person who has custody of the sealed 20639
records only for the purposes set forth in divisions (C), (D), and 20640
(E) of this section. 20641

(G) Notwithstanding any provision of this section or section 20642
2953.33 of the Revised Code that requires otherwise, a board of 20643
education of a city, local, exempted village, or joint vocational 20644
school district that maintains records of an individual who has 20645
been permanently excluded under sections 3301.121 and 3313.662 of 20646
the Revised Code is permitted to maintain records regarding a 20647
conviction that was used as the basis for the individual's 20648
permanent exclusion, regardless of a court order to seal the 20649
record. An order issued under this section to seal the record of a 20650

conviction does not revoke the adjudication order of the 20651
superintendent of public instruction to permanently exclude the 20652
individual who is the subject of the sealing order. An order 20653
issued under this section to seal the record of a conviction of an 20654
individual may be presented to a district superintendent as 20655
evidence to support the contention that the superintendent should 20656
recommend that the permanent exclusion of the individual who is 20657
the subject of the sealing order be revoked. Except as otherwise 20658
authorized by this division and sections 3301.121 and 3313.662 of 20659
the Revised Code, any school employee in possession of or having 20660
access to the sealed conviction records of an individual that were 20661
the basis of a permanent exclusion of the individual is subject to 20662
section 2953.35 of the Revised Code. 20663

(H) For purposes of sections 2953.31 to 2953.36 of the 20664
Revised Code, DNA records collected in the DNA database and 20665
fingerprints filed for record by the superintendent of the bureau 20666
of criminal identification and investigation shall not be sealed 20667
unless the superintendent receives a certified copy of a final 20668
court order establishing that the offender's conviction has been 20669
overturned. For purposes of this section, a court order is not 20670
"final" if time remains for an appeal or application for 20671
discretionary review with respect to the order. 20672

Sec. 2961.22. (A)(1) Any prisoner serving a prison term in a 20673
state correctional institution who satisfies all of the following 20674
is eligible to apply to the department of rehabilitation and 20675
correction at a time specified in division (A)(2) of this section 20676
and in accordance with division (D) of this section for a 20677
certificate of achievement and employability: 20678

(a) The prisoner has satisfactorily completed one or more 20679
in-prison vocational programs approved by rule by the department 20680
of rehabilitation and correction. 20681

(b) The prisoner has demonstrated exemplary performance as 20682
determined by completion of one or more cognitive or behavioral 20683
improvement programs approved by rule by the department while 20684
incarcerated in a state correctional institution, while under 20685
supervision, or during both periods of time. 20686

(c) The prisoner has completed community service hours. 20687

(d) The prisoner shows other evidence of achievement and 20688
rehabilitation while under the jurisdiction of the department. 20689

(2) An eligible prisoner may apply to the department of 20690
rehabilitation and correction under division (A)(1) of this 20691
section for a certificate of achievement and employability no 20692
earlier than one year prior to the date scheduled for the release 20693
of the prisoner from department custody and no later than the date 20694
of release of the prisoner. 20695

(B)(1) Any prisoner who has been released from a state 20696
correctional institution, who is under supervision on parole or 20697
under a post-release control sanction, and who satisfies all of 20698
the criteria set forth in division (A)(1) of this section is 20699
eligible to apply to the adult parole authority at a time 20700
specified in division (B)(2) of this section and in accordance 20701
with division (D) of this section for a certificate of achievement 20702
and employability. 20703

(2) An eligible prisoner may apply to the adult parole 20704
authority under division (B)(1) of this section for a certificate 20705
of achievement and employability at any time while the prisoner is 20706
under supervision on parole or under a post-release control 20707
sanction. 20708

(C)(1) An eligible prisoner may apply to the department of 20709
rehabilitation and correction or to the adult parole authority at 20710
a time specified in division (A) or (B) of this section, whichever 20711
is applicable, for a certificate of achievement and employability 20712

that grants the prisoner relief from one or more mandatory civil 20713
impacts that would affect a potential job within a field in which 20714
the prisoner trained as part of the prisoner's in-prison 20715
vocational program. The prisoner shall specify the mandatory civil 20716
impacts from which the prisoner is requesting relief under the 20717
certificate. Upon application by a prisoner in accordance with 20718
this division, if the mandatory civil impact of any licensing 20719
agency would be affected by the issuance of the certificate to the 20720
prisoner, the department or authority shall notify the licensing 20721
agency of the filing of the application, provide the licensing 20722
agency with a copy of the application and all evidence that the 20723
department, authority, or court has regarding the prisoner, and 20724
afford the licensing agency with an opportunity to object in 20725
writing to the issuance of the certificate to the prisoner. 20726

(2) Upon application by a prisoner in accordance with 20727
division (C)(1) of this section, the department of rehabilitation 20728
and correction or the adult parole authority, whichever is 20729
applicable, shall consider the application and all objections to 20730
the issuance of a certificate of achievement and employability to 20731
the prisoner, if any, that were made by a licensing agency under 20732
division (C)(1) of this section. If the department or authority 20733
determines that the prisoner is an eligible prisoner, that the 20734
application was filed at a time specified in division (B) of this 20735
section, and that any licensing agency objections to the issuance 20736
of the certificate to the prisoner are not sufficient to deny the 20737
issuance of the certificate to the prisoner, subject to division 20738
(C)(3) of this section, the department or authority shall issue 20739
the prisoner a certificate of achievement and employability that 20740
grants the prisoner relief from the mandatory civil impacts that 20741
are specified in the prisoner's application and that would affect 20742
a potential job within a field in which the prisoner trained as 20743
part of the prisoner's in-prison vocational program. 20744

(3) The mandatory civil impacts identified in division (A)(1) 20745
of section 2961.01 and in division (B) of section 2961.02 of the 20746
Revised Code shall not be affected by any certificate of 20747
achievement and employability issued under this section. No 20748
certificate of achievement and employability issued to a prisoner 20749
under this section grants the prisoner relief from the mandatory 20750
civil impacts identified in division (A)(1) of section 2961.01 and 20751
in division (B) of section 2961.02 of the Revised Code. 20752

(E) The department of rehabilitation and correction shall 20753
adopt rules that define in-prison vocational programs and 20754
cognitive or behavioral improvement programs that a prisoner may 20755
complete to satisfy the criteria described in divisions (A)(1)(a) 20756
and (b) of this section. 20757

(F) The department of rehabilitation and correction and the 20758
adult parole authority shall not be liable for any claim for 20759
damages arising from the department's or authority's issuance, 20760
denial, or revocation of a certificate of achievement and 20761
employability or for the department's or authority's failure to 20762
revoke a certificate of achievement and employability under the 20763
circumstances described in section 2961.24 of the Revised Code. 20764

Sec. 2967.03. The adult parole authority may exercise its 20765
functions and duties in relation to the pardon, commutation of 20766
sentence, or reprieve of a convict upon direction of the governor 20767
or upon its own initiative. It may exercise its functions and 20768
duties in relation to the parole of a prisoner who is eligible for 20769
parole upon the initiative of the head of the institution in which 20770
the prisoner is confined or upon its own initiative. When a 20771
prisoner becomes eligible for parole, the head of the institution 20772
in which the prisoner is confined shall notify the authority in 20773
the manner prescribed by the authority. The authority may 20774
investigate and examine, or cause the investigation and 20775

examination of, prisoners confined in state correctional 20776
institutions concerning their conduct in the institutions, their 20777
mental and moral qualities and characteristics, their knowledge of 20778
a trade or profession, their former means of livelihood, their 20779
family relationships, and any other matters affecting their 20780
fitness to be at liberty without being a threat to society. 20781

The authority may recommend to the governor the pardon, 20782
commutation of sentence, ~~medical release~~, or reprieve of any 20783
convict or prisoner or grant a parole to any prisoner for whom 20784
parole is authorized, if in its judgment there is reasonable 20785
ground to believe that granting a pardon, commutation, ~~medical~~ 20786
~~release~~, or reprieve to the convict or paroling the prisoner would 20787
further the interests of justice and be consistent with the 20788
welfare and security of society. However, the authority shall not 20789
recommend a pardon, or commutation of sentence, ~~or medical release~~ 20790
~~of~~, or grant a parole to, any convict or prisoner until the 20791
authority has complied with the applicable notice requirements of 20792
sections 2930.16 and 2967.12 of the Revised Code and until it has 20793
considered any statement made by a victim or a victim's 20794
representative that is relevant to the convict's or prisoner's 20795
case and that was sent to the authority pursuant to section 20796
2930.17 of the Revised Code, any other statement made by a victim 20797
or a victim's representative that is relevant to the convict's or 20798
prisoner's case and that was received by the authority after it 20799
provided notice of the pendency of the action under sections 20800
2930.16 and 2967.12 of the Revised Code, and any written statement 20801
of any person submitted to the court pursuant to division (G) of 20802
section 2967.12 of the Revised Code. If a victim, victim's 20803
representative, or the victim's spouse, parent, sibling, or child 20804
appears at a full board hearing of the parole board and gives 20805
testimony as authorized by section 5149.101 of the Revised Code, 20806
the authority shall consider the testimony in determining whether 20807
to grant a parole. The trial judge and prosecuting attorney of the 20808

trial court in which a person was convicted shall furnish to the 20809
authority, at the request of the authority, a summarized statement 20810
of the facts proved at the trial and of all other facts having 20811
reference to the propriety of recommending a pardon, commutation, 20812
or medical release, or granting a parole, together with a 20813
recommendation for or against a pardon, commutation, medical 20814
release, or parole, and the reasons for the recommendation. The 20815
trial judge, the prosecuting attorney, specified law enforcement 20816
agency members, and a representative of the prisoner may appear at 20817
a full board hearing of the parole board and give testimony in 20818
regard to the grant of a parole to the prisoner as authorized by 20819
section 5149.101 of the Revised Code. All state and local 20820
officials shall furnish information to the authority, when so 20821
requested by it in the performance of its duties. 20822

The adult parole authority shall exercise its functions and 20823
duties in relation to the release of prisoners who are serving a 20824
stated prison term in accordance with section 2967.28 of the 20825
Revised Code. 20826

Sec. 2967.05. (A) As used in this section: 20827

(1) "Imminent danger of death" means that the inmate has a 20828
medically diagnosable condition that will cause death to occur 20829
within a short period of time. 20830

As used in division (A)(1) of this section, "within a short 20831
period of time" means generally within six months. 20832

(2)(a) "Medically incapacitated" means any diagnosable 20833
medical condition, including mental dementia and severe, permanent 20834
medical or cognitive disability, that prevents the inmate from 20835
completing activities of daily living without significant 20836
assistance, that incapacitates the inmate to the extent that 20837
institutional confinement does not offer additional restrictions, 20838
that is likely to continue throughout the entire period of parole, 20839

and that is unlikely to improve noticeably. 20840

(b) "Medically incapacitated" does not include conditions 20841
related solely to mental illness unless the mental illness is 20842
accompanied by injury, disease, or organic defect. 20843

(3)(a) "Terminal illness" means a condition that satisfies 20844
all of the following criteria: 20845

(i) The condition is irreversible and incurable and is caused 20846
by disease, illness, or injury from which the inmate is unlikely 20847
to recover. 20848

(ii) In accordance with reasonable medical standards and a 20849
reasonable degree of medical certainty, the condition is likely to 20850
cause death to the inmate within twelve months. 20851

(iii) Institutional confinement of the inmate does not offer 20852
additional protections for public safety or against the inmate's 20853
risk to reoffend. 20854

(b) The department of rehabilitation and correction shall 20855
adopt rules pursuant to Chapter 119. of the Revised Code to 20856
implement the definition of "terminal illness" in division 20857
(A)(3)(a) of this section. 20858

(B) Upon the recommendation of the director of rehabilitation 20859
and correction, accompanied by a certificate of the attending 20860
physician that an inmate is terminally ill, medically 20861
incapacitated, or in imminent danger of death, the governor may 20862
order the inmate's release as if on parole, reserving the right to 20863
return the inmate to the institution pursuant to this section. If, 20864
subsequent to the inmate's release, the inmate's health improves 20865
so that the inmate is no longer terminally ill, medically 20866
incapacitated, or in imminent danger of death, the inmate shall be 20867
returned, by order of the governor, to the institution from which 20868
the inmate was released. If the inmate violates any rules or 20869
conditions applicable to the inmate, the inmate may be returned to 20870

an institution under the control of the department of 20871
rehabilitation and correction. The governor may direct the adult 20872
parole authority to investigate or cause to be investigated the 20873
inmate and make a recommendation ~~in the manner set forth in~~ 20874
~~section 2967.03 of the Revised Code.~~ An inmate released under this 20875
section shall be subject to supervision by the adult parole 20876
authority in accordance with any recommendation of the adult 20877
parole authority that is approved by the governor. The adult 20878
parole authority shall adopt rules pursuant to section 119.03 of 20879
the Revised Code to establish the procedure for medical release of 20880
an inmate when an inmate is terminally ill, medically 20881
incapacitated, or in imminent danger of death. 20882

(C) No inmate is eligible for release under this section if 20883
the inmate is serving a death sentence, a sentence of life without 20884
parole, a sentence under Chapter 2971. of the Revised Code for a 20885
felony of the first or second degree, a sentence for aggravated 20886
murder or murder, or a mandatory prison term for an offense of 20887
violence or any specification described in Chapter 2941. of the 20888
Revised Code. 20889

Sec. 2967.14. (A) The department of rehabilitation and 20890
correction or the adult parole authority may require or allow a 20891
parolee, a releasee, or a prisoner otherwise released from a state 20892
correctional institution to reside in a halfway house or other 20893
suitable community residential center that has been licensed by 20894
the division of parole and community services pursuant to division 20895
(C) of this section during a part or for the entire period of the 20896
offender's or parolee's conditional release or of the releasee's 20897
term of post-release control. The court of common pleas that 20898
placed an offender under a sanction consisting of a term in a 20899
halfway house or in an alternative residential sanction may 20900
require the offender to reside in a halfway house or other 20901
suitable community residential center that is designated by the 20902

court and that has been licensed by the division pursuant to 20903
division (C) of this section during a part or for the entire 20904
period of the offender's residential sanction. 20905

(B) The division of parole and community services may 20906
negotiate and enter into agreements with any public or private 20907
agency or a department or political subdivision of the state that 20908
operates a halfway house, reentry center, or community residential 20909
center that has been licensed by the division pursuant to division 20910
(C) of this section. An agreement under this division shall 20911
provide for the purchase of beds, shall set limits of supervision 20912
and levels of occupancy, and shall determine the scope of services 20913
for all eligible offenders, including those subject to a 20914
residential sanction, as defined in rules adopted by the director 20915
of rehabilitation and correction in accordance with Chapter 119. 20916
of the Revised Code, or those released from prison without 20917
supervision. The payments for beds and services shall not exceed 20918
the total operating costs of the halfway house, reentry center, or 20919
community residential center during the term of an agreement. The 20920
director of rehabilitation and correction shall adopt rules in 20921
accordance with Chapter 119. of the Revised Code for determining 20922
includable and excludable costs and income to be used in computing 20923
the agency's average daily per capita costs with its facility at 20924
full occupancy. 20925

The ~~department~~ director of rehabilitation and correction ~~may~~ 20926
shall adopt rules providing for the use of no more than ~~ten~~ 20927
fifteen per cent of the amount appropriated to the department each 20928
fiscal year for the halfway house, reentry center, and community 20929
residential center program to pay for contracts with licensed 20930
halfway houses for nonresidential services for offenders under the 20931
supervision of the adult parole authority, including but not 20932
limited to, offenders supervised pursuant to an agreement entered 20933
into by the adult parole authority and a court of common pleas 20934

under section 2301.32 of the Revised Code. The nonresidential 20935
services may include, but are not limited to, treatment for 20936
substance abuse, mental health counseling, counseling for sex 20937
offenders, ~~and~~ electronic monitoring services, aftercare, and 20938
other nonresidential services that the director identifies by 20939
rule. 20940

(C) The division of parole and community services may license 20941
a halfway house, reentry center, or community residential center 20942
as a suitable facility for the care and treatment of adult 20943
offenders, including offenders sentenced under section 2929.16 or 20944
2929.26 of the Revised Code, only if the halfway house, reentry 20945
center, or community residential center complies with the 20946
standards that the division adopts in accordance with Chapter 119. 20947
of the Revised Code for the licensure of halfway houses, reentry 20948
centers, and community residential centers. The division shall 20949
annually inspect each licensed halfway house, licensed reentry 20950
center, and licensed community residential center to determine if 20951
it is in compliance with the licensure standards. 20952

Sec. 2967.19. (A) As used in this section: 20953

(1) "Deadly weapon" and "dangerous ordnance" have the same 20954
meanings as in section 2923.11 of the Revised Code. 20955

(2) "Disqualifying prison term" means any of the following: 20956

(a) A prison term imposed for aggravated murder, murder, 20957
voluntary manslaughter, involuntary manslaughter, felonious 20958
assault, kidnapping, rape, aggravated arson, aggravated burglary, 20959
or aggravated robbery; 20960

(b) A prison term imposed for complicity in, an attempt to 20961
commit, or conspiracy to commit any offense listed in division 20962
(A)(2)(a) of this section; 20963

(c) A prison term of life imprisonment, including any term of 20964

life imprisonment that has parole eligibility; 20965

(d) A prison term imposed for any felony other than carrying 20966
a concealed weapon an essential element of which is any conduct or 20967
failure to act expressly involving any deadly weapon or dangerous 20968
ordnance; 20969

(e) A prison term imposed for any violation of section 20970
2925.03 of the Revised Code that is a felony of the first or 20971
second degree; 20972

(f) A prison term imposed for engaging in a pattern of 20973
corrupt activity in violation of section 2923.32 of the Revised 20974
Code; 20975

(g) A prison term imposed pursuant to section 2971.03 of the 20976
Revised Code; 20977

(h) A prison term imposed for any sexually oriented offense. 20978

(3) "Eligible prison term" means any prison term that is not 20979
a disqualifying prison term and is not a restricting prison term. 20980

(4) "Restricting prison term" means any of the following: 20981

(a) A mandatory prison term imposed under division 20982
~~(D)~~(B)(1)(a), ~~(D)~~(B)(1)(c), ~~(D)~~(B)(1)(f), ~~(D)~~(B)(1)(g), ~~(D)~~(B)(2), 20983
or ~~(D)~~(B)(7) of section 2929.14 of the Revised Code for a 20984
specification of the type described in that division; 20985

(b) In the case of an offender who has been sentenced to a 20986
mandatory prison term for a specification of the type described in 20987
division (A)(4)(a) of this section, the prison term imposed for 20988
the felony offense for which the specification was stated at the 20989
end of the body of the indictment, count in the indictment, or 20990
information charging the offense; 20991

(c) A prison term imposed for trafficking in persons; 20992

(d) A prison term imposed for any offense that is described 20993
in division (A)(4)(d)(i) of this section if division (A)(4)(d)(ii) 20994

of this section applies to the offender: 20995

(i) The offense is a felony of the first or second degree 20996
that is an offense of violence and that is not described in 20997
division (A)(2)(a) or (b) of this section, an attempt to commit a 20998
felony of the first or second degree that is an offense of 20999
violence and that is not described in division (A)(2)(a) or (b) of 21000
this section if the attempt is a felony of the first or second 21001
degree, or an offense under an existing or former law of this 21002
state, another state, or the United States that is or was 21003
substantially equivalent to any other offense described in this 21004
division. 21005

(ii) The offender previously was convicted of or pleaded 21006
guilty to any offense listed in division (A)(2) or (A)(4)(d)(i) of 21007
this section. 21008

(5) "Sexually oriented offense" has the same meaning as in 21009
section 2950.01 of the Revised Code. 21010

(B) The director of the department of rehabilitation and 21011
correction may ~~petition~~ recommend in writing to the sentencing 21012
court ~~for the release~~ that the court consider releasing from 21013
prison ~~of~~ any offender who, on or after September 30, 2011, is 21014
confined in a state correctional institution ~~under, who is serving~~ 21015
a stated prison term of one year or more, and who is eligible 21016
under division (C) of this section for a release under this 21017
section ~~and who has served at least eighty per cent of that stated~~ 21018
~~prison term that remains to be served after the offender becomes~~ 21019
~~eligible as described in that division.~~ If the director wishes to 21020
~~submit a petition for release~~ recommend that the sentencing court 21021
consider releasing an offender under this section, the director 21022
shall ~~submit the petition~~ notify the sentencing court in writing 21023
of the offender's eligibility not earlier than ninety days prior 21024
to the date on which the offender ~~has served eighty per cent of~~ 21025
~~the offender's stated prison term that remains to be served after~~ 21026

~~the offender~~ becomes eligible as described in division (C) of this 21027
section. The director's submission of a ~~petition for release under~~ 21028
~~this section~~ the written notice constitutes a recommendation by 21029
the director that the court strongly consider release of the 21030
offender consistent with the purposes and principles of sentencing 21031
set forth in sections 2929.11 and 2929.13 of the Revised Code. 21032
Only an offender recommended by the director under division (B) of 21033
this section may be considered for early release under this 21034
section. 21035

(C)(1) An offender serving a stated prison term of one year 21036
or more and who has commenced service of that stated prison term 21037
becomes eligible for release from prison under this section only 21038
as described in this division. An offender serving a stated prison 21039
term that includes a disqualifying prison term is not eligible for 21040
release from prison under this section. An offender serving a 21041
stated prison term that consists solely of one or more restricting 21042
prison terms is not eligible for release under this section. An 21043
offender serving a stated prison term of one year or more that 21044
includes one or more restricting prison terms and one or more 21045
eligible prison terms becomes eligible for release under this 21046
section after having fully served ~~each~~ all restricting prison ~~term~~ 21047
terms and having served eighty per cent of the stated prison term 21048
that remains to be served after all restricting prison terms have 21049
been fully served. An offender serving a stated prison term that 21050
consists solely of one or more eligible prison terms becomes 21051
eligible for release under this section ~~upon the offender's~~ 21052
~~commencement of service~~ after having served eighty per cent of 21053
that stated prison term. ~~After an offender becomes eligible for~~ 21054
~~release under this section, the director of rehabilitation and~~ 21055
~~correction may petition for the release of the offender under~~ 21056
~~division (C)(2) of this section no earlier than ninety days before~~ 21057
~~the offender has served the portion of the offender's stated~~ 21058
~~prison term specified in that division.~~ For purposes of 21059

determining an offender's eligibility for release under this 21060
section, if the offender's stated prison term includes consecutive 21061
prison terms, any restricting prison terms shall be deemed served 21062
prior to any eligible prison terms that run consecutively to the 21063
restricting prison terms, and the eligible prison terms are deemed 21064
to commence after all of the restricting prison terms have been 21065
fully served. 21066

An offender serving a stated prison term ~~one~~ of one year or 21067
more that includes a mandatory prison term that is not a 21068
disqualifying prison term and is not a restricting prison term is 21069
not automatically ineligible as a result of the offender's service 21070
of that mandatory term for release from prison under this section, 21071
and the offender's eligibility for release from prison under this 21072
section is determined in accordance with this division. 21073

(2) If an offender confined in a state correctional 21074
institution under a stated prison term is eligible for release 21075
under this section as described in division (C)(1) of this 21076
section, the director of the department of rehabilitation and 21077
correction may ~~petition~~ recommend in writing that the sentencing 21078
court ~~pursuant to division (B) of this section for the release~~ 21079
consider releasing the offender from prison of the offender under 21080
this section by submitting to the sentencing court the written 21081
notice described in division (B) of this section. 21082

(D) The director shall include with any ~~petition~~ notice 21083
submitted to the sentencing court under division (B) of this 21084
section an institutional summary report that covers the offender's 21085
participation while confined in a state correctional institution 21086
in school, training, work, treatment, and other rehabilitative 21087
activities and any disciplinary action taken against the offender 21088
while so confined. The director shall include with the ~~petition a~~ 21089
~~post-release control assessment and placement plan, when relevant,~~ 21090
~~and~~ notice any other documentation requested by the court, if 21091

available. 21092

(E) When the director submits a ~~petition~~ written notice to a 21093
sentencing court that an offender is eligible to be considered for 21094
early release under this section ~~for release of an offender~~, the 21095
department promptly shall provide to the prosecuting attorney of 21096
the county in which the offender was indicted a copy of the 21097
~~petition~~ written notice, a copy of the institutional summary 21098
report, and any other information provided to the court. The 21099
department also promptly shall give written notice of the ~~filing~~ 21100
~~of the petition~~ submission to any victim of the offender or 21101
victim's representative of any victim of the offender who is 21102
registered with the office of victim's services. 21103

The department also shall post a copy of the written notice 21104
~~of the petition~~ on the database it maintains under section 5120.66 21105
of the Revised Code and include information on where a person may 21106
send comments regarding the ~~petition~~ recommendation of early 21107
release. 21108

The information provided to the court, the prosecutor, and 21109
the victim or victim's representative under divisions (D) and (E) 21110
of this section shall include the name and contact information of 21111
a specific department of rehabilitation and correction employee 21112
who is available to answer questions about the offender who is the 21113
subject of the written notice submitted by the director, 21114
including, but not limited to, the offender's institutional 21115
conduct and rehabilitative activities while incarcerated. 21116

(F) Upon receipt of a ~~petition for release of an offender~~ 21117
written notice submitted by the director under division (B) of 21118
this section, the court ~~may deny the petition without~~ either 21119
shall, on its own motion, schedule a hearing to consider releasing 21120
the offender who is the subject of the notice or shall inform the 21121
department that it will not be conducting a hearing relative to 21122
the offender. The court shall not grant a ~~petition for an early~~ 21123

release ~~of~~ to an offender without holding a hearing. If a court 21124
~~denies a petition for release of an offender without~~ declines to 21125
hold a hearing relative to an offender with respect to a written 21126
notice submitted by the director, the court may later consider 21127
release of that offender under this section on a ~~subsequent~~ 21128
~~petition. The court shall enter its ruling within~~ its own motion 21129
by scheduling a hearing for that purpose. Within thirty days after 21130
the ~~petition~~ written notice is ~~filed~~ submitted, the court shall 21131
inform the department whether or not the court is scheduling a 21132
hearing on the offender who is the subject of the notice. 21133

(G) If the court ~~grants~~ schedules a hearing ~~on~~ upon receiving 21134
a ~~petition for release of an offender~~ written notice submitted 21135
under division (B) of this section or upon its own motion under 21136
division (F) of this section, the court shall notify the head of 21137
the state correctional institution in which the offender is 21138
confined of the hearing prior to the hearing. If the court makes a 21139
journal entry ordering the offender to be conveyed to the hearing, 21140
except as otherwise provided in this division, the head of the 21141
correctional institution shall deliver the offender to the sheriff 21142
of the county in which the hearing is to be held, and the sheriff 21143
shall convey the offender to and from the hearing. Upon the 21144
court's own motion or the motion of the offender or the 21145
prosecuting attorney of the county in which the offender was 21146
indicted, the court may permit the offender to appear at the 21147
hearing by video conferencing equipment if equipment of that 21148
nature is available and compatible. 21149

Upon receipt of notice from a court of a hearing on the 21150
release of an offender under this division, the head of the state 21151
correctional institution in which the offender is confined 21152
immediately shall notify the appropriate person at the department 21153
of rehabilitation and correction of the hearing, and the 21154
department within twenty-four hours after receipt of the notice 21155

shall post on the database it maintains pursuant to section 21156
5120.66 of the Revised Code the offender's name and all of the 21157
information specified in division (A)(1)(c)(i) of that section. If 21158
the court ~~grants~~ schedules a hearing ~~on a petition for release of~~ 21159
~~an offender~~ under this section, the court promptly shall give 21160
notice of the hearing to the prosecuting attorney of the county in 21161
which the offender was indicted. Upon receipt of the notice from 21162
the court, the prosecuting attorney shall notify pursuant to 21163
section 2930.16 of the Revised Code any victim of the offender or 21164
the victim's representative of the hearing. 21165

(H) If the court ~~grants~~ schedules a hearing ~~on a petition for~~ 21166
~~release of an offender~~ under this section, at the hearing, the 21167
court shall afford the offender and the offender's attorney an 21168
opportunity to present written information and, if present, oral 21169
information relevant to the ~~motion~~ offender's early release. The 21170
court shall afford a similar opportunity to the prosecuting 21171
attorney, victim or victim's representative, as defined in section 21172
2930.01 of the Revised Code, and any other person the court 21173
determines is likely to present additional relevant information. 21174
If the court pursuant to division (G) of this section permits the 21175
offender to appear at the hearing by video conferencing equipment, 21176
the offender's opportunity to present oral information shall be as 21177
a part of the video conferencing. The court shall consider any 21178
statement of a victim made under section 2930.14 or 2930.17 of the 21179
Revised Code, any victim impact statement prepared under section 21180
2947.051 of the Revised Code, and any report, ~~plan~~, and other 21181
documentation submitted by the director under division (D) of this 21182
section. After ruling on ~~the motion~~ whether to grant the offender 21183
early release, the court shall notify the victim in accordance 21184
with sections 2930.03 and 2930.16 of the Revised Code. 21185

(I) If the court grants ~~a petition for release of~~ an offender 21186
early release under this section, it shall order the release of 21187

the offender, shall place the offender under one or more 21188
appropriate community control sanctions, under appropriate 21189
conditions, and under the supervision of the department of 21190
probation that serves the court, and shall reserve the right to 21191
reimpose the sentence that it reduced and from which the offender 21192
was released if the offender violates the sanction. The court 21193
shall not make a release under this section effective prior to the 21194
date on which the offender ~~has served at least eighty per cent of~~ 21195
~~the offender's stated prison term that remains to be served after~~ 21196
~~the offender~~ becomes eligible as described in division (C) of this 21197
section. If the sentence under which the offender is confined in a 21198
state correctional institution and from which the offender is 21199
being released was imposed for a felony of the first or second 21200
degree, the court shall consider ordering that the offender be 21201
monitored by means of a global positioning device. If the court 21202
reimposes the sentence that it reduced and from which the offender 21203
was released and if the violation of the sanction is a new 21204
offense, the court may order that the reimposed sentence be served 21205
either concurrently with, or consecutive to, any new sentence 21206
imposed upon the offender as a result of the violation that is a 21207
new offense. The period of all community control sanctions imposed 21208
under this division shall not exceed five years. The court, in its 21209
discretion, may reduce the period of community control sanctions 21210
by the amount of time the offender spent in jail or prison for the 21211
offense. 21212

If the court grants ~~a petition for release of~~ an offender 21213
early release under this section, it shall notify the appropriate 21214
person at the department of rehabilitation and correction of the 21215
release, and the department shall post notice of the release on 21216
the database it maintains pursuant to section 5120.66 of the 21217
Revised Code. 21218

(J) The department shall adopt under Chapter 119. of the 21219

Revised Code any rules necessary to implement this section. 21220

Sec. 2967.191. The department of rehabilitation and 21221
correction shall reduce the stated prison term of a prisoner or, 21222
if the prisoner is serving a term for which there is parole 21223
eligibility, the minimum and maximum term or the parole 21224
eligibility date of the prisoner by the total number of days that 21225
the prisoner was confined for any reason arising out of the 21226
offense for which the prisoner was convicted and sentenced, 21227
including confinement in lieu of bail while awaiting trial, 21228
confinement for examination to determine the prisoner's competence 21229
to stand trial or sanity, and confinement while awaiting 21230
transportation to the place where the prisoner is to serve the 21231
prisoner's prison term, as determined by the sentencing court 21232
under division (B)(2)(h)(i) of section 2929.19 of the Revised 21233
Code. The department of rehabilitation and correction also shall 21234
reduce the stated prison term of a prisoner or, if the prisoner is 21235
serving a term for which there is parole eligibility, the minimum 21236
and maximum term or the parole eligibility date of the prisoner by 21237
the total number of days, if any, that the prisoner previously 21238
served in the custody of the department of rehabilitation and 21239
correction arising out of the offense for which the prisoner was 21240
convicted and sentenced. 21241

Sec. 2967.26. (A)(1) The department of rehabilitation and 21242
correction, by rule, may establish a transitional control program 21243
for the purpose of closely monitoring a prisoner's adjustment to 21244
community supervision during the final one hundred eighty days of 21245
the prisoner's confinement. If the department establishes a 21246
transitional control program under this division, the adult parole 21247
authority may transfer eligible prisoners to transitional control 21248
status under the program during the final one hundred eighty days 21249
of their confinement and under the terms and conditions 21250

established by the department, shall provide for the confinement 21251
as provided in this division of each eligible prisoner so 21252
transferred, and shall supervise each eligible prisoner so 21253
transferred in one or more community control sanctions. Each 21254
eligible prisoner who is transferred to transitional control 21255
status under the program shall be confined in a suitable facility 21256
that is licensed pursuant to division (C) of section 2967.14 of 21257
the Revised Code, or shall be confined in a residence the 21258
department has approved for this purpose and be monitored pursuant 21259
to an electronic monitoring device, as defined in section 2929.01 21260
of the Revised Code. If the department establishes a transitional 21261
control program under this division, the rules establishing the 21262
program shall include criteria that define which prisoners are 21263
eligible for the program, criteria that must be satisfied to be 21264
approved as a residence that may be used for confinement under the 21265
program of a prisoner that is transferred to it and procedures for 21266
the department to approve residences that satisfy those criteria, 21267
and provisions of the type described in division (C) of this 21268
section. At a minimum, the criteria that define which prisoners 21269
are eligible for the program shall provide all of the following: 21270

(a) That a prisoner is eligible for the program if the 21271
prisoner is serving a prison term or term of imprisonment for an 21272
offense committed prior to March 17, 1998, and if, at the time at 21273
which eligibility is being determined, the prisoner would have 21274
been eligible for a furlough under this section as it existed 21275
immediately prior to March 17, 1998, or would have been eligible 21276
for conditional release under former section 2967.23 of the 21277
Revised Code as that section existed immediately prior to March 21278
17, 1998; 21279

(b) That no prisoner who is serving a mandatory prison term 21280
is eligible for the program until after expiration of the 21281
mandatory term; 21282

(c) That no prisoner who is serving a prison term or term of 21283
life imprisonment without parole imposed pursuant to section 21284
2971.03 of the Revised Code is eligible for the program. 21285

(2) At least three weeks prior to transferring to 21286
transitional control under this section a prisoner who is serving 21287
a term of imprisonment or prison term for an offense committed on 21288
or after July 1, 1996, the ~~adult~~ division of parole authority and 21289
community services of the department of rehabilitation and 21290
correction shall give notice of the pendency of the transfer to 21291
transitional control to the court of common pleas of the county in 21292
which the indictment against the prisoner was found and of the 21293
fact that the court may disapprove the transfer of the prisoner to 21294
transitional control and shall include a report prepared by the 21295
head of the state correctional institution in which the prisoner 21296
is confined. The head of the state correctional institution in 21297
which the prisoner is confined, upon the request of the adult 21298
parole authority, shall provide to the authority for inclusion in 21299
the notice sent to the court under this division a report on the 21300
prisoner's conduct in the institution and in any institution from 21301
which the prisoner may have been transferred. The report shall 21302
cover the prisoner's participation in school, vocational training, 21303
work, treatment, and other rehabilitative activities and any 21304
disciplinary action taken against the prisoner. If the court 21305
disapproves of the transfer of the prisoner to transitional 21306
control, the court shall notify the authority of the disapproval 21307
within thirty days after receipt of the notice. If the court 21308
timely disapproves the transfer of the prisoner to transitional 21309
control, the authority shall not proceed with the transfer. If the 21310
court does not timely disapprove the transfer of the prisoner to 21311
transitional control, the authority may transfer the prisoner to 21312
transitional control. 21313

(3) If the victim of an offense for which a prisoner was 21314

sentenced to a prison term or term of imprisonment has requested 21315
notification under section 2930.16 of the Revised Code and has 21316
provided the department of rehabilitation and correction with the 21317
victim's name and address, the adult parole authority, at least 21318
three weeks prior to transferring the prisoner to transitional 21319
control pursuant to this section, shall notify the victim of the 21320
pendency of the transfer and of the victim's right to submit a 21321
statement to the authority regarding the impact of the transfer of 21322
the prisoner to transitional control. If the victim subsequently 21323
submits a statement of that nature to the authority, the authority 21324
shall consider the statement in deciding whether to transfer the 21325
prisoner to transitional control. 21326

(4) The department of rehabilitation and correction, at least 21327
three weeks prior to transferring a prisoner to transitional 21328
control pursuant to this section, shall post on the database it 21329
maintains pursuant to section 5120.66 of the Revised Code the 21330
prisoner's name and all of the information specified in division 21331
(A)(1)(c)(iv) of that section. In addition to and independent of 21332
the right of a victim to submit a statement as described in 21333
division (A)(3) of this section or to otherwise make a statement 21334
and in addition to and independent of any other right or duty of a 21335
person to present information or make a statement, any person may 21336
send to the adult parole authority at any time prior to the 21337
authority's transfer of the prisoner to transitional control a 21338
written statement regarding the transfer of the prisoner to 21339
transitional control. In addition to the information, reports, and 21340
statements it considers under divisions (A)(2) and (3) of this 21341
section or that it otherwise considers, the authority shall 21342
consider each statement submitted in accordance with this division 21343
in deciding whether to transfer the prisoner to transitional 21344
control. 21345

(B) Each prisoner transferred to transitional control under 21346

this section shall be confined in the manner described in division 21347
(A) of this section during any period of time that the prisoner is 21348
not actually working at the prisoner's approved employment, 21349
engaged in a vocational training or another educational program, 21350
engaged in another program designated by the director, or engaged 21351
in other activities approved by the department. 21352

(C) The department of rehabilitation and correction shall 21353
adopt rules for transferring eligible prisoners to transitional 21354
control, supervising and confining prisoners so transferred, 21355
administering the transitional control program in accordance with 21356
this section, and using the moneys deposited into the transitional 21357
control fund established under division (E) of this section. 21358

(D) The department of rehabilitation and correction may adopt 21359
rules for the issuance of passes for the limited purposes 21360
described in this division to prisoners who are transferred to 21361
transitional control under this section. If the department adopts 21362
rules of that nature, the rules shall govern the granting of the 21363
passes and shall provide for the supervision of prisoners who are 21364
temporarily released pursuant to one of those passes. Upon the 21365
adoption of rules under this division, the department may issue 21366
passes to prisoners who are transferred to transitional control 21367
status under this section in accordance with the rules and the 21368
provisions of this division. All passes issued under this division 21369
shall be for a maximum of forty-eight hours and may be issued only 21370
for the following purposes: 21371

(1) To visit a relative in imminent danger of death; 21372

(2) To have a private viewing of the body of a deceased 21373
relative; 21374

(3) To visit with family; 21375

(4) To otherwise aid in the rehabilitation of the prisoner. 21376

(E) The adult parole authority may require a prisoner who is 21377

transferred to transitional control to pay to the division of 21378
parole and community services the reasonable expenses incurred by 21379
the division in supervising or confining the prisoner while under 21380
transitional control. Inability to pay those reasonable expenses 21381
shall not be grounds for refusing to transfer an otherwise 21382
eligible prisoner to transitional control. Amounts received by the 21383
division of parole and community services under this division 21384
shall be deposited into the transitional control fund, which is 21385
hereby created in the state treasury and which hereby replaces and 21386
succeeds the furlough services fund that formerly existed in the 21387
state treasury. All moneys that remain in the furlough services 21388
fund on March 17, 1998, shall be transferred on that date to the 21389
transitional control fund. The transitional control fund shall be 21390
used solely to pay costs related to the operation of the 21391
transitional control program established under this section. The 21392
director of rehabilitation and correction shall adopt rules in 21393
accordance with section 111.15 of the Revised Code for the use of 21394
the fund. 21395

(F) A prisoner who violates any rule established by the 21396
department of rehabilitation and correction under division (A), 21397
(C), or (D) of this section may be transferred to a state 21398
correctional institution pursuant to rules adopted under division 21399
(A), (C), or (D) of this section, but the prisoner shall receive 21400
credit towards completing the prisoner's sentence for the time 21401
spent under transitional control. 21402

If a prisoner is transferred to transitional control under 21403
this section, upon successful completion of the period of 21404
transitional control, the prisoner may be released on parole or 21405
under post-release control pursuant to section 2967.13 or 2967.28 21406
of the Revised Code and rules adopted by the department of 21407
rehabilitation and correction. If the prisoner is released under 21408
post-release control, the duration of the post-release control, 21409

the type of post-release control sanctions that may be imposed, 21410
the enforcement of the sanctions, and the treatment of prisoners 21411
who violate any sanction applicable to the prisoner are governed 21412
by section 2967.28 of the Revised Code. 21413

Sec. 2967.28. (A) As used in this section: 21414

(1) "Monitored time" means the monitored time sanction 21415
specified in section 2929.17 of the Revised Code. 21416

(2) "Deadly weapon" and "dangerous ordnance" have the same 21417
meanings as in section 2923.11 of the Revised Code. 21418

(3) "Felony sex offense" means a violation of a section 21419
contained in Chapter 2907. of the Revised Code that is a felony. 21420

(4) "Risk reduction sentence" means a prison term imposed by 21421
a court, when the court recommends pursuant to section 2929.143 of 21422
the Revised Code that the offender serve the sentence under 21423
section 5120.036 of the Revised Code, and the offender may 21424
potentially be released from imprisonment prior to the expiration 21425
of the prison term if the offender successfully completes all 21426
assessment and treatment or programming required by the department 21427
of rehabilitation and correction under section 5120.036 of the 21428
Revised Code. 21429

(B) Each sentence to a prison term for a felony of the first 21430
degree, for a felony of the second degree, for a felony sex 21431
offense, or for a felony of the third degree that is not a felony 21432
sex offense and in the commission of which the offender caused or 21433
threatened to cause physical harm to a person shall include a 21434
requirement that the offender be subject to a period of 21435
post-release control imposed by the parole board after the 21436
offender's release from imprisonment. This division applies with 21437
respect to all prison terms of a type described in this division, 21438
including a term of any such type that is a risk reduction 21439

sentence. If a court imposes a sentence including a prison term of 21440
a type described in this division on or after July 11, 2006, the 21441
failure of a sentencing court to notify the offender pursuant to 21442
division (B)(2)(c) of section 2929.19 of the Revised Code of this 21443
requirement or to include in the judgment of conviction entered on 21444
the journal a statement that the offender's sentence includes this 21445
requirement does not negate, limit, or otherwise affect the 21446
mandatory period of supervision that is required for the offender 21447
under this division. Section 2929.191 of the Revised Code applies 21448
if, prior to July 11, 2006, a court imposed a sentence including a 21449
prison term of a type described in this division and failed to 21450
notify the offender pursuant to division (B)(2)(c) of section 21451
2929.19 of the Revised Code regarding post-release control or to 21452
include in the judgment of conviction entered on the journal or in 21453
the sentence pursuant to division (D)(1) of section 2929.14 of the 21454
Revised Code a statement regarding post-release control. Unless 21455
reduced by the parole board pursuant to division (D) of this 21456
section when authorized under that division, a period of 21457
post-release control required by this division for an offender 21458
shall be of one of the following periods: 21459

(1) For a felony of the first degree or for a felony sex 21460
offense, five years; 21461

(2) For a felony of the second degree that is not a felony 21462
sex offense, three years; 21463

(3) For a felony of the third degree that is not a felony sex 21464
offense and in the commission of which the offender caused or 21465
threatened physical harm to a person, three years. 21466

(C) Any sentence to a prison term for a felony of the third, 21467
fourth, or fifth degree that is not subject to division (B)(1) or 21468
(3) of this section shall include a requirement that the offender 21469
be subject to a period of post-release control of up to three 21470
years after the offender's release from imprisonment, if the 21471

parole board, in accordance with division (D) of this section, 21472
determines that a period of post-release control is necessary for 21473
that offender. This division applies with respect to all prison 21474
terms of a type described in this division, including a term of 21475
any such type that is a risk reduction sentence. Section 2929.191 21476
of the Revised Code applies if, prior to July 11, 2006, a court 21477
imposed a sentence including a prison term of a type described in 21478
this division and failed to notify the offender pursuant to 21479
division (B)(2)(d) of section 2929.19 of the Revised Code 21480
regarding post-release control or to include in the judgment of 21481
conviction entered on the journal or in the sentence pursuant to 21482
division (D)(2) of section 2929.14 of the Revised Code a statement 21483
regarding post-release control. Pursuant to an agreement entered 21484
into under section 2967.29 of the Revised Code, a court of common 21485
pleas or parole board may impose sanctions or conditions on an 21486
offender who is placed on post-release control under this 21487
division. 21488

(D)(1) Before the prisoner is released from imprisonment, the 21489
parole board or, pursuant to an agreement under section 2967.29 of 21490
the Revised Code, the court shall impose upon a prisoner described 21491
in division (B) of this section, shall impose upon a prisoner 21492
described in division (C) of this section who is to be released 21493
before the expiration of the prisoner's stated prison term under a 21494
risk reduction sentence, may impose upon a prisoner described in 21495
division (C) of this section who is not to be released before the 21496
expiration of the prisoner's stated prison term under a risk 21497
reduction sentence, and shall impose upon a prisoner described in 21498
division (B)(2)(b) of section 5120.031 or in division (B)(1) of 21499
section 5120.032 of the Revised Code, one or more post-release 21500
control sanctions to apply during the prisoner's period of 21501
post-release control. Whenever the board or court imposes one or 21502
more post-release control sanctions upon a prisoner, the board or 21503
court, in addition to imposing the sanctions, also shall include 21504

as a condition of the post-release control that the offender not 21505
leave the state without permission of the court or the offender's 21506
parole or probation officer and that the offender abide by the 21507
law. The board or court may impose any other conditions of release 21508
under a post-release control sanction that the board or court 21509
considers appropriate, and the conditions of release may include 21510
any community residential sanction, community nonresidential 21511
sanction, or financial sanction that the sentencing court was 21512
authorized to impose pursuant to sections 2929.16, 2929.17, and 21513
2929.18 of the Revised Code. Prior to the release of a prisoner 21514
for whom it will impose one or more post-release control sanctions 21515
under this division, the parole board or court shall review the 21516
prisoner's criminal history, results from the single validated 21517
risk assessment tool selected by the department of rehabilitation 21518
and correction under section 5120.114 of the Revised Code, all 21519
juvenile court adjudications finding the prisoner, while a 21520
juvenile, to be a delinquent child, and the record of the 21521
prisoner's conduct while imprisoned. The parole board or court 21522
shall consider any recommendation regarding post-release control 21523
sanctions for the prisoner made by the office of victims' 21524
services. After considering those materials, the board or court 21525
shall determine, for a prisoner described in division (B) of this 21526
section, division (B)(2)(b) of section 5120.031, or division 21527
(B)(1) of section 5120.032 of the Revised Code and for a prisoner 21528
described in division (C) of this section who is to be released 21529
before the expiration of the prisoner's stated prison term under a 21530
risk reduction sentence, which post-release control sanction or 21531
combination of post-release control sanctions is reasonable under 21532
the circumstances or, for a prisoner described in division (C) of 21533
this section who is not to be released before the expiration of 21534
the prisoner's stated prison term under a risk reduction sentence, 21535
whether a post-release control sanction is necessary and, if so, 21536
which post-release control sanction or combination of post-release 21537

control sanctions is reasonable under the circumstances. In the 21538
case of a prisoner convicted of a felony of the fourth or fifth 21539
degree other than a felony sex offense, the board or court shall 21540
presume that monitored time is the appropriate post-release 21541
control sanction unless the board or court determines that a more 21542
restrictive sanction is warranted. A post-release control sanction 21543
imposed under this division takes effect upon the prisoner's 21544
release from imprisonment. 21545

Regardless of whether the prisoner was sentenced to the 21546
prison term prior to, on, or after July 11, 2006, prior to the 21547
release of a prisoner for whom it will impose one or more 21548
post-release control sanctions under this division, the parole 21549
board shall notify the prisoner that, if the prisoner violates any 21550
sanction so imposed or any condition of post-release control 21551
described in division (B) of section 2967.131 of the Revised Code 21552
that is imposed on the prisoner, the parole board may impose a 21553
prison term of up to one-half of the stated prison term originally 21554
imposed upon the prisoner. 21555

(2) If a prisoner who is placed on post-release control under 21556
this section is released before the expiration of the prisoner's 21557
stated prison term by reason of credit earned under section 21558
2967.193 of the Revised Code and if the prisoner earned sixty or 21559
more days of credit, the adult parole authority shall supervise 21560
the offender with an active global positioning system device for 21561
the first fourteen days after the offender's release from 21562
imprisonment. This division does not prohibit or limit the 21563
imposition of any post-release control sanction otherwise 21564
authorized by this section. 21565

(3) At any time after a prisoner is released from 21566
imprisonment and during the period of post-release control 21567
applicable to the releasee, the adult parole authority or, 21568
pursuant to an agreement under section 2967.29 of the Revised 21569

Code, the court may review the releasee's behavior under the 21570
post-release control sanctions imposed upon the releasee under 21571
this section. The authority or court may determine, based upon the 21572
review and in accordance with the standards established under 21573
division (E) of this section, that a more restrictive or a less 21574
restrictive sanction is appropriate and may impose a different 21575
sanction. The authority also may recommend that the parole board 21576
or court increase or reduce the duration of the period of 21577
post-release control imposed by the court. If the authority 21578
recommends that the board or court increase the duration of 21579
post-release control, the board or court shall review the 21580
releasee's behavior and may increase the duration of the period of 21581
post-release control imposed by the court up to eight years. If 21582
the authority recommends that the board or court reduce the 21583
duration of control for an offense described in division (B) or 21584
(C) of this section, the board or court shall review the 21585
releasee's behavior and may reduce the duration of the period of 21586
control imposed by the court. In no case shall the board or court 21587
reduce the duration of the period of control imposed for an 21588
offense described in division (B)(1) of this section to a period 21589
less than the length of the stated prison term originally imposed, 21590
and in no case shall the board or court permit the releasee to 21591
leave the state without permission of the court or the releasee's 21592
parole or probation officer. 21593

(E) The department of rehabilitation and correction, in 21594
accordance with Chapter 119. of the Revised Code, shall adopt 21595
rules that do all of the following: 21596

(1) Establish standards for the imposition by the parole 21597
board of post-release control sanctions under this section that 21598
are consistent with the overriding purposes and sentencing 21599
principles set forth in section 2929.11 of the Revised Code and 21600
that are appropriate to the needs of releasees; 21601

(2) Establish standards that provide for a period of 21602
post-release control of up to three years for all prisoners 21603
described in division (C) of this section who are to be released 21604
before the expiration of their stated prison term under a risk 21605
reduction sentence and standards by which the parole board can 21606
determine which prisoners described in division (C) of this 21607
section who are not to be released before the expiration of their 21608
stated prison term under a risk reduction sentence should be 21609
placed under a period of post-release control; 21610

(3) Establish standards to be used by the parole board in 21611
reducing the duration of the period of post-release control 21612
imposed by the court when authorized under division (D) of this 21613
section, in imposing a more restrictive post-release control 21614
sanction than monitored time upon a prisoner convicted of a felony 21615
of the fourth or fifth degree other than a felony sex offense, or 21616
in imposing a less restrictive control sanction upon a releasee 21617
based on the releasee's activities including, but not limited to, 21618
remaining free from criminal activity and from the abuse of 21619
alcohol or other drugs, successfully participating in approved 21620
rehabilitation programs, maintaining employment, and paying 21621
restitution to the victim or meeting the terms of other financial 21622
sanctions; 21623

(4) Establish standards to be used by the adult parole 21624
authority in modifying a releasee's post-release control sanctions 21625
pursuant to division (D)(2) of this section; 21626

(5) Establish standards to be used by the adult parole 21627
authority or parole board in imposing further sanctions under 21628
division (F) of this section on releasees who violate post-release 21629
control sanctions, including standards that do the following: 21630

(a) Classify violations according to the degree of 21631
seriousness; 21632

(b) Define the circumstances under which formal action by the parole board is warranted; 21633
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(c) Govern the use of evidence at violation hearings; 21635

(d) Ensure procedural due process to an alleged violator; 21636

(e) Prescribe nonresidential community control sanctions for most misdemeanor and technical violations; 21637
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(f) Provide procedures for the return of a releasee to imprisonment for violations of post-release control. 21639
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(F)(1) Whenever the parole board imposes one or more post-release control sanctions upon an offender under this section, the offender upon release from imprisonment shall be under the general jurisdiction of the adult parole authority and generally shall be supervised by the field services section through its staff of parole and field officers as described in section 5149.04 of the Revised Code, as if the offender had been placed on parole. If the offender upon release from imprisonment violates the post-release control sanction or any conditions described in division (A) of section 2967.131 of the Revised Code that are imposed on the offender, the public or private person or entity that operates or administers the sanction or the program or activity that comprises the sanction shall report the violation directly to the adult parole authority or to the officer of the authority who supervises the offender. The authority's officers may treat the offender as if the offender were on parole and in violation of the parole, and otherwise shall comply with this section. 21641
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(2) If the adult parole authority or, pursuant to an agreement under section 2967.29 of the Revised Code, the court determines that a releasee has violated a post-release control sanction or any conditions described in division (A) of section 2967.131 of the Revised Code imposed upon the releasee and that a 21659
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more restrictive sanction is appropriate, the authority or court 21664
may impose a more restrictive sanction upon the releasee, in 21665
accordance with the standards established under division (E) of 21666
this section or in accordance with the agreement made under 21667
section 2967.29 of the Revised Code, or may report the violation 21668
to the parole board for a hearing pursuant to division (F)(3) of 21669
this section. The authority or court may not, pursuant to this 21670
division, increase the duration of the releasee's post-release 21671
control or impose as a post-release control sanction a residential 21672
sanction that includes a prison term, but the authority or court 21673
may impose on the releasee any other residential sanction, 21674
nonresidential sanction, or financial sanction that the sentencing 21675
court was authorized to impose pursuant to sections 2929.16, 21676
2929.17, and 2929.18 of the Revised Code. 21677

(3) The parole board or, pursuant to an agreement under 21678
section 2967.29 of the Revised Code, the court may hold a hearing 21679
on any alleged violation by a releasee of a post-release control 21680
sanction or any conditions described in division (A) of section 21681
2967.131 of the Revised Code that are imposed upon the releasee. 21682
If after the hearing the board or court finds that the releasee 21683
violated the sanction or condition, the board or court may 21684
increase the duration of the releasee's post-release control up to 21685
the maximum duration authorized by division (B) or (C) of this 21686
section or impose a more restrictive post-release control 21687
sanction. When appropriate, the board or court may impose as a 21688
post-release control sanction a residential sanction that includes 21689
a prison term. The board or court shall consider a prison term as 21690
a post-release control sanction imposed for a violation of 21691
post-release control when the violation involves a deadly weapon 21692
or dangerous ordnance, physical harm or attempted serious physical 21693
harm to a person, or sexual misconduct, or when the releasee 21694
committed repeated violations of post-release control sanctions. 21695
Unless a releasee's stated prison term was reduced pursuant to 21696

section 5120.032 of the Revised Code, the period of a prison term 21697
that is imposed as a post-release control sanction under this 21698
division shall not exceed nine months, and the maximum cumulative 21699
prison term for all violations under this division shall not 21700
exceed one-half of the stated prison term originally imposed upon 21701
the offender as part of this sentence. If a releasee's stated 21702
prison term was reduced pursuant to section 5120.032 of the 21703
Revised Code, the period of a prison term that is imposed as a 21704
post-release control sanction under this division and the maximum 21705
cumulative prison term for all violations under this division 21706
shall not exceed the period of time not served in prison under the 21707
sentence imposed by the court. The period of a prison term that is 21708
imposed as a post-release control sanction under this division 21709
shall not count as, or be credited toward, the remaining period of 21710
post-release control. 21711

If an offender is imprisoned for a felony committed while 21712
under post-release control supervision and is again released on 21713
post-release control for a period of time determined by division 21714
(F)(4)(d) of this section, the maximum cumulative prison term for 21715
all violations under this division shall not exceed one-half of 21716
the total stated prison terms of the earlier felony, reduced by 21717
any prison term administratively imposed by the parole board or 21718
court, plus one-half of the total stated prison term of the new 21719
felony. 21720

(4) Any period of post-release control shall commence upon an 21721
offender's actual release from prison. If an offender is serving 21722
an indefinite prison term or a life sentence in addition to a 21723
stated prison term, the offender shall serve the period of 21724
post-release control in the following manner: 21725

(a) If a period of post-release control is imposed upon the 21726
offender and if the offender also is subject to a period of parole 21727
under a life sentence or an indefinite sentence, and if the period 21728

of post-release control ends prior to the period of parole, the 21729
offender shall be supervised on parole. The offender shall receive 21730
credit for post-release control supervision during the period of 21731
parole. The offender is not eligible for final release under 21732
section 2967.16 of the Revised Code until the post-release control 21733
period otherwise would have ended. 21734

(b) If a period of post-release control is imposed upon the 21735
offender and if the offender also is subject to a period of parole 21736
under an indefinite sentence, and if the period of parole ends 21737
prior to the period of post-release control, the offender shall be 21738
supervised on post-release control. The requirements of parole 21739
supervision shall be satisfied during the post-release control 21740
period. 21741

(c) If an offender is subject to more than one period of 21742
post-release control, the period of post-release control for all 21743
of the sentences shall be the period of post-release control that 21744
expires last, as determined by the parole board or court. Periods 21745
of post-release control shall be served concurrently and shall not 21746
be imposed consecutively to each other. 21747

(d) The period of post-release control for a releasee who 21748
commits a felony while under post-release control for an earlier 21749
felony shall be the longer of the period of post-release control 21750
specified for the new felony under division (B) or (C) of this 21751
section or the time remaining under the period of post-release 21752
control imposed for the earlier felony as determined by the parole 21753
board or court. 21754

Sec. 2981.11. (A)(1) Any property that has been lost, 21755
abandoned, stolen, seized pursuant to a search warrant, or 21756
otherwise lawfully seized or forfeited and that is in the custody 21757
of a law enforcement agency shall be kept safely by the agency, 21758
pending the time it no longer is needed as evidence or for another 21759

lawful purpose, and shall be disposed of pursuant to sections	21760
2981.12 and 2981.13 of the Revised Code.	21761
(2) This chapter does not apply to the custody and disposal	21762
of any of the following:	21763
(a) Vehicles subject to forfeiture under Title XLV of the	21764
Revised Code, except as provided in division (A)(6) of section	21765
2981.12 of the Revised Code;	21766
(b) Abandoned junk motor vehicles or other property of	21767
negligible value;	21768
(c) Property held by a department of rehabilitation and	21769
correction institution that is unclaimed, that does not have an	21770
identified owner, that the owner agrees to dispose of, or that is	21771
identified by the department as having little value;	21772
(d) Animals taken, and devices used in unlawfully taking	21773
animals, under section 1531.20 of the Revised Code;	21774
(e) Controlled substances sold by a peace officer in the	21775
performance of the officer's official duties under section	21776
3719.141 of the Revised Code;	21777
(f) Property recovered by a township law enforcement agency	21778
under sections 505.105 to 505.109 of the Revised Code;	21779
(g) Property held and disposed of under an ordinance of the	21780
municipal corporation or under sections 737.29 to 737.33 of the	21781
Revised Code, except that a municipal corporation that has	21782
received notice of a citizens' reward program as provided in	21783
division (F) of section 2981.12 of the Revised Code and disposes	21784
of property under an ordinance shall pay twenty-five per cent of	21785
any moneys acquired from any sale or auction to the citizens'	21786
reward program.	21787
(B)(1) Each law enforcement agency that has custody of any	21788
property that is subject to this section shall adopt and comply	21789

with a written internal control policy that does all of the 21790
following: 21791

(a) Provides for keeping detailed records as to the amount of 21792
property acquired by the agency and the date property was 21793
acquired; 21794

(b) Provides for keeping detailed records of the disposition 21795
of the property, which shall include, but not be limited to, both 21796
of the following: 21797

(i) The manner in which it was disposed, the date of 21798
disposition, detailed financial records concerning any property 21799
sold, and the name of any person who received the property. The 21800
record shall not identify or enable identification of the 21801
individual officer who seized any item of property. 21802

(ii) The general types of expenditures made with amounts that 21803
are gained from the sale of the property and that are retained by 21804
the agency, including the specific amount expended on each general 21805
type of expenditure, except that the policy shall not provide for 21806
or permit the identification of any specific expenditure that is 21807
made in an ongoing investigation. 21808

(c) Complies with section 2981.13 of the Revised Code if the 21809
agency has a law enforcement trust fund or similar fund created 21810
under that section. 21811

~~(2) Each law enforcement agency that during any calendar year 21812
has any seized or forfeited property covered by this section in 21813
its custody, including amounts distributed under section 2981.13 21814
of the Revised Code to its law enforcement trust fund or a similar 21815
fund created for the state highway patrol, department of public 21816
safety, department of taxation, or state board of pharmacy, shall 21817
prepare a report covering the calendar year that cumulates all of 21818
the information contained in all of the public records kept by the 21819
agency pursuant to this section for that calendar year. The agency 21820~~

~~shall send a copy of the cumulative report to the attorney general 21821
not later than the first day of March in the calendar year 21822
following the calendar year covered by the report. 21823~~

~~(3) The records kept under the internal control policy shall 21824
be open to public inspection during the agency's regular business 21825
hours. The policy adopted under this section and each report 21826
received by the attorney general is a public record open for 21827
inspection under section 149.43 of the Revised Code. 21828~~

~~(4) Not later than the fifteenth day of April in each 21829
calendar year in which reports are sent to the attorney general 21830
under division (B)(2) of this section, the attorney general shall 21831
send to the president of the senate and the speaker of the house 21832
of representatives a written notice that indicates that the 21833
attorney general received reports that cover the previous calendar 21834
year, that the reports are open for inspection under section 21835
149.43 of the Revised Code, and that the attorney general will 21836
provide a copy of any or all of the reports to the president of 21837
the senate or the speaker of the house of representatives upon 21838
request. 21839~~

~~(C) A law enforcement agency with custody of property to be 21840
disposed of under section 2981.12 or 2981.13 of the Revised Code 21841
shall make a reasonable effort to locate persons entitled to 21842
possession of the property, to notify them of when and where it 21843
may be claimed, and to return the property to them at the earliest 21844
possible time. In the absence of evidence identifying persons 21845
entitled to possession, it is sufficient notice to advertise in a 21846
newspaper of general circulation in the county and to briefly 21847
describe the nature of the property in custody and inviting 21848
persons to view and establish their right to it. 21849~~

~~(D) As used in sections 2981.11 to 2981.13 of the Revised 21850
Code: 21851~~

(1) "Citizens' reward program" has the same meaning as in section 9.92 of the Revised Code. 21852
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(2) "Law enforcement agency" includes correctional institutions. 21854
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(3) "Township law enforcement agency" means an organized police department of a township, a township police district, a joint police district, or the office of a township constable. 21856
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Sec. 2981.14. (A) Nothing in this chapter precludes the head of a law enforcement agency that seizes property from seeking forfeiture under federal law. If the property is forfeitable under this chapter and federal forfeiture is not sought, the property is subject only to this chapter. 21859
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(B) Any law enforcement agency that receives moneys from a sale of forfeited property under federal law shall deposit, use, and account for the amounts, including any interest derived, in accordance with applicable federal law. If the state highway patrol or the investigative unit of the department of public safety receives such federal forfeiture moneys, the appropriate official shall deposit all interest or other earnings derived from the investment of the moneys into the ~~contraband, forfeiture, and other fund of the~~ highway patrol treasury contraband fund, the highway patrol justice contraband fund, the investigative unit treasury contraband fund, or the ~~department~~ investigative unit justice contraband fund, whichever is appropriate. 21864
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(C) There is hereby created in the state treasury the highway patrol treasury contraband fund, the highway patrol justice contraband fund, the investigative unit treasury contraband fund, and the investigative unit justice contraband fund. Each fund shall consist of moneys received under division (B) of this section and shall be used in accordance with any federal or other requirements associated with moneys received. 21876
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Sec. 3125.41. (A) As used in this section:	21883
(1) "Cable television service" has the same meaning as in section 2913.01 of the Revised Code.	21884 21885
(2) "Public utility" means a person or entity, including an entity owned or operated by a municipal corporation or other government entity, that is described in division (A) of section 4905.03 of the Revised Code as a telephone company, electric light company, gas company, natural gas company, water-works company, heating or cooling company, or sewage disposal system company, or that is providing cable television service.	21886 21887 21888 21889 21890 21891 21892
(B) Except as provided in section 3125.43 of the Revised Code, the office of child support shall have access to all of the following unless release of the information is prohibited by federal or state law:	21893 21894 21895 21896
(1) Any information in the possession of any officer or entity of the state or any political subdivision of the state that would aid the office in locating an absent parent or child pursuant to section 3125.06 of the Revised Code;	21897 21898 21899 21900
(2) Any information concerning the employment, compensation, and benefits of any obligor or obligee subject to a support order in the possession of any person;	21901 21902 21903
(3) The name and address of any obligor or obligee subject to a support order and the obligor's or obligee's employer in the customer records of a public utility.	21904 21905 21906
Sec. 3301.55. (A) A school district, county DD board, or eligible nonpublic school operating a preschool program shall house the program in buildings that meet the following requirements:	21907 21908 21909 21910
(1) The building is operated by the district, county DD	21911

board, or eligible nonpublic school and has been approved by the 21912
division of ~~labor~~ industrial compliance in the department of 21913
commerce or a certified municipal, township, or county building 21914
department for the purpose of operating a program for preschool 21915
children. Any such structure shall be constructed, equipped, 21916
repaired, altered, and maintained in accordance with applicable 21917
provisions of Chapters 3781. and 3791. and with rules adopted by 21918
the board of building standards under Chapter 3781. of the Revised 21919
Code for the safety and sanitation of structures erected for this 21920
purpose. 21921

(2) The building is in compliance with fire and safety laws 21922
and regulations as evidenced by reports of annual school fire and 21923
safety inspections as conducted by appropriate local authorities. 21924

(3) The school is in compliance with rules established by the 21925
state board of education regarding school food services. 21926

(4) The facility includes not less than thirty-five square 21927
feet of indoor space for each child in the program. Safe play 21928
space, including both indoor and outdoor play space, totaling not 21929
less than sixty square feet for each child using the space at any 21930
one time, shall be regularly available and scheduled for use. 21931

(5) First aid facilities and space for temporary placement or 21932
isolation of injured or ill children are provided. 21933

(B) Each school district, county DD board, or eligible 21934
nonpublic school that operates, or proposes to operate, a 21935
preschool program shall submit a building plan including all 21936
information specified by the state board of education to the board 21937
not later than the first day of September of the school year in 21938
which the program is to be initiated. The board shall determine 21939
whether the buildings meet the requirements of this section and 21940
section 3301.53 of the Revised Code, and notify the superintendent 21941
of its determination. If the board determines, on the basis of the 21942

building plan or any other information, that the buildings do not 21943
meet those requirements, it shall cause the buildings to be 21944
inspected by the department of education. The department shall 21945
make a report to the superintendent specifying any aspects of the 21946
building that are not in compliance with the requirements of this 21947
section and section 3301.53 of the Revised Code and the time 21948
period that will be allowed the district, county DD board, or 21949
school to meet the requirements. 21950

Sec. 3304.14. (A) The governor shall appoint an administrator 21951
of the rehabilitation services commission to serve at the pleasure 21952
of the governor and shall fix the administrator's compensation. 21953
The administrator shall devote the administrator's entire time to 21954
the duties of the administrator's office, shall hold no other 21955
office or position of trust and profit, and shall engage in no 21956
other business during the administrator's term of office. The 21957
governor may grant the administrator the authority to appoint, 21958
remove, and discipline without regard to sex, race, creed, color, 21959
age, or national origin, such other professional, administrative, 21960
and clerical staff members as are necessary to carry out the 21961
functions and duties of the commission. 21962

(B)(1) The administrator shall have exclusive authority to 21963
administer the daily operation and provision of vocational 21964
rehabilitation services under this chapter. 21965

(2) The administrator shall establish a fee schedule for 21966
vocational rehabilitation services in accordance with 34 C.F.R. 21967
361.50. 21968

Sec. 3304.16. In carrying out the purposes of sections 21969
3304.11 to 3304.27 of the Revised Code, the rehabilitation 21970
services commission: 21971

(A) Shall develop all necessary rules; 21972

(B) Shall prepare and submit to the governor annual reports of activities and expenditures and, prior to each first regular session of the general assembly, an estimate of sums required to carry out the commission's responsibilities;	21973 21974 21975 21976
(C) Shall certify any disbursement of funds available to the commission for vocational rehabilitation activities;	21977 21978
(D) Shall serve as the sole state agency designated to administer the plan under the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C. 701, as amended;	21979 21980 21981
(E) Shall take appropriate action to guarantee rights of and services to handicapped persons;	21982 21983
(F) Shall consult with and advise other state agencies to assist them in meeting the needs of handicapped persons more effectively and to achieve maximum coordination among programs for the handicapped;	21984 21985 21986 21987
(G) Shall establish an administrative division of consumer affairs and advocacy within the commission to promote and help guarantee the rights of handicapped persons;	21988 21989 21990
(H) Shall maintain an inventory of state services that are available to handicapped persons;	21991 21992
(I) Shall utilize, support, assist, and cooperate with the governor's committee on employment of the handicapped;	21993 21994
(J) May delegate to any officer or employee of the commission any necessary powers and duties, <u>except that the commission shall delegate to the administrator of the commission, as provided in section 3304.14 of the Revised Code, the power and duty to administer the daily operation and provision of vocational rehabilitation services;</u>	21995 21996 21997 21998 21999 22000
(K) May take any other necessary or appropriate action for cooperation with public and private agencies and organizations	22001 22002

which may include:	22003
(1) Reciprocal agreements with other states to provide for the vocational rehabilitation of individuals within the states concerned;	22004 22005 22006
(2) Contracts or other arrangements with public and other nonprofit agencies and organizations for the construction or establishment and operation of vocational rehabilitation programs and facilities;	22007 22008 22009 22010
(3) Cooperative arrangements with the federal government for carrying out sections 3304.11 to 3304.27 of the Revised Code, the "Vocational Rehabilitation Act," 41 Stat. 735 (1920), 29 U.S.C. 31, as amended, or other federal statutes pertaining to vocational rehabilitation, and to this end, may adopt plans and methods of administration found necessary by the federal government for the efficient operation of any joint arrangements or the efficient application of any federal statutes;	22011 22012 22013 22014 22015 22016 22017 22018
(4) Upon the designation of the governor, performing functions and services for the federal government relating to individuals under a physical or mental disability.	22019 22020 22021
(L) Shall comply with <u>May take any requirements appropriate action</u> necessary to obtain federal funds in the maximum amount and most advantageous proportion possible- <i>i</i>	22022 22023 22024
(M) May conduct research and demonstration projects, including inquiries concerning the causes of blindness and its prevention, provide training and instruction, including the establishment and maintenance of research fellowships and traineeships along with all necessary stipends and allowances, disseminate information, and provide technical assistance relating to vocational rehabilitation;	22025 22026 22027 22028 22029 22030 22031
(N) May plan, establish, and operate programs, facilities, and services relating to vocational rehabilitation;	22032 22033

(O) May accept and hold, invest, reinvest, or otherwise use 22034
gifts made for the purpose of furthering vocational 22035
rehabilitation; 22036

(P) May ameliorate the condition of the aged blind or other 22037
severely disabled individuals by establishing a program of home 22038
visitation by commission employees for the purpose of instruction; 22039

(Q) May establish and manage small business enterprises that 22040
are operated by persons with a substantial handicap to employment, 22041
including blind persons; 22042

(R) May purchase from insurance companies licensed to do 22043
business in this state any insurance deemed necessary by the 22044
commission for the efficient operation of a suitable vending 22045
facility as defined in division (A) of section 3304.28 of the 22046
Revised Code; 22047

(S) May accept directly from any state agency, and any state 22048
agency may transfer directly to the commission, surplus computers 22049
and computer equipment to be used for any purposes the commission 22050
considers appropriate, notwithstanding sections 125.12 to 125.14 22051
of the Revised Code. 22052

Sec. 3304.181. If the total of all funds available from 22053
nonfederal sources to support the activities of the rehabilitation 22054
services commission does not comply with the expenditure 22055
requirements of 34 C.F.R. 361.60 and 361.62 for those activities 22056
or would cause the state to lose an allotment or fail to receive a 22057
reallotment under 34 C.F.R. 361.65, the commission ~~shall~~ may 22058
solicit additional funds from, and enter into agreements for the 22059
use of those funds with, private or public entities, including 22060
local government entities of this state. The commission ~~shall~~ may 22061
continue to solicit additional funds and enter into agreements 22062
until the total funding available is sufficient for the commission 22063
to receive federal funds at the maximum amount and in the most 22064

advantageous proportion possible. 22065

Any agreement entered into between the commission and a 22066
private or public entity to provide funds under this section shall 22067
be in accordance with 34 C.F.R. 361.28 and section 3304.182 of the 22068
Revised Code. 22069

Sec. 3304.182. Any agreement between the rehabilitation 22070
services commission and a private or public entity providing funds 22071
under section 3304.181 of the Revised Code may permit the 22072
commission to receive a specified percentage of the funds, but the 22073
percentage shall be not more than twenty-five per cent of the 22074
total funds available under the agreement. ~~The agreement shall not~~ 22075
~~be for less than six months or be discontinued by the commission~~ 22076
~~without the commission first providing three months notice of~~ 22077
~~intent to discontinue the agreement.~~ The commission may terminate 22078
an agreement only at any time for good just cause. It may 22079
terminate an agreement for any other reason by giving at least 22080
thirty days' notice to the public or private entity. 22081

Any services provided under an agreement entered into under 22082
section 3304.181 of the Revised Code shall be provided by a person 22083
or government entity that meets the accreditation standards 22084
established in rules adopted by the commission under section 22085
3304.16 of the Revised Code. 22086

Sec. 3313.65. (A) As used in this section and section 3313.64 22087
of the Revised Code: 22088

(1) A person is "in a residential facility" if the person is 22089
a resident or a resident patient of an institution, home, or other 22090
residential facility that is: 22091

(a) Licensed as a nursing home, residential care facility, or 22092
home for the aging by the director of health under section 3721.02 22093

of the Revised Code;	22094
(b) Licensed as an adult care facility by the director of	22095
mental health under sections 5119.70 to 5119.88 of the Revised	22096
Code;	22097
(e) Maintained as a county home or district home by the board	22098
of county commissioners or a joint board of county commissioners	22099
under Chapter 5155. of the Revised Code;	22100
(d) <u>(c)</u> Operated or administered by a board of alcohol, drug	22101
addiction, and mental health services under section 340.03 or	22102
340.06 of the Revised Code, or provides residential care pursuant	22103
to contracts made under section 340.03 or 340.033 of the Revised	22104
Code;	22105
(e) <u>(d)</u> Maintained as a state institution for the mentally ill	22106
under Chapter 5119. of the Revised Code;	22107
(f) <u>(e)</u> Licensed by the department of mental health under	22108
section 5119.20 or 5119.22 of the Revised Code;	22109
(g) <u>(f)</u> Licensed as a residential facility by the department	22110
of developmental disabilities under section 5123.19 of the Revised	22111
Code;	22112
(h) <u>(g)</u> Operated by the veteran's administration or another	22113
agency of the United States government;	22114
(i) <u>(h)</u> Operated by the Ohio veterans' home.	22115
(2) A person is "in a correctional facility" if any of the	22116
following apply:	22117
(a) The person is an Ohio resident and is:	22118
(i) Imprisoned, as defined in section 1.05 of the Revised	22119
Code;	22120
(ii) Serving a term in a community-based correctional	22121
facility or a district community-based correctional facility;	22122

(iii) Required, as a condition of parole, a post-release control sanction, a community control sanction, transitional control, or early release from imprisonment, as a condition of shock parole or shock probation granted under the law in effect prior to July 1, 1996, or as a condition of a furlough granted under the version of section 2967.26 of the Revised Code in effect prior to March 17, 1998, to reside in a halfway house or other community residential center licensed under section 2967.14 of the Revised Code or a similar facility designated by the court of common pleas that established the condition or by the adult parole authority.

(b) The person is imprisoned in a state correctional institution of another state or a federal correctional institution but was an Ohio resident at the time the sentence was imposed for the crime for which the person is imprisoned.

(3) A person is "in a juvenile residential placement" if the person is an Ohio resident who is under twenty-one years of age and has been removed, by the order of a juvenile court, from the place the person resided at the time the person became subject to the court's jurisdiction in the matter that resulted in the person's removal.

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

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

(B) If the circumstances described in division (C) of this section apply, the determination of what school district must admit a child to its schools and what district, if any, is liable for tuition shall be made in accordance with this section, rather than section 3313.64 of the Revised Code.

(C) A child who does not reside in the school district in

which the child's parent resides and for whom a tuition obligation 22154
previously has not been established under division (C)(2) of 22155
section 3313.64 of the Revised Code shall be admitted to the 22156
schools of the district in which the child resides if at least one 22157
of the child's parents is in a residential or correctional 22158
facility or a juvenile residential placement and the other parent, 22159
if living and not in such a facility or placement, is not known to 22160
reside in this state. 22161

(D) Regardless of who has custody or care of the child, 22162
whether the child resides in a home, or whether the child receives 22163
special education, if a district admits a child under division (C) 22164
of this section, tuition shall be paid to that district as 22165
follows: 22166

(1) If the child's parent is in a juvenile residential 22167
placement, by the district in which the child's parent resided at 22168
the time the parent became subject to the jurisdiction of the 22169
juvenile court; 22170

(2) If the child's parent is in a correctional facility, by 22171
the district in which the child's parent resided at the time the 22172
sentence was imposed; 22173

(3) If the child's parent is in a residential facility, by 22174
the district in which the parent resided at the time the parent 22175
was admitted to the residential facility, except that if the 22176
parent was transferred from another residential facility, tuition 22177
shall be paid by the district in which the parent resided at the 22178
time the parent was admitted to the facility from which the parent 22179
first was transferred; 22180

(4) In the event of a disagreement as to which school 22181
district is liable for tuition under division (C)(1), (2), or (3) 22182
of this section, the superintendent of public instruction shall 22183
determine which district shall pay tuition. 22184

(E) If a child covered by division (D) of this section 22185
receives special education in accordance with Chapter 3323. of the 22186
Revised Code, the tuition shall be paid in accordance with section 22187
3323.13 or 3323.14 of the Revised Code. Tuition for children who 22188
do not receive special education shall be paid in accordance with 22189
division (J) of section 3313.64 of the Revised Code. 22190

Sec. 3313.71. School physicians may make examinations, which 22191
shall include tests to determine the existence of hearing defects, 22192
and diagnoses of all children referred to them. They may make such 22193
examination of teachers and other school employees and inspection 22194
of school buildings as in their opinion the protection of health 22195
of the pupils, teachers, and other school employees requires. 22196

Boards of education shall require and provide, in accordance 22197
with section 3313.67 of the Revised Code, such tests and 22198
examinations for tuberculosis of pupils in selected grades and of 22199
school employees as may be required by the Ohio public director of 22200
health ~~council~~. 22201

Boards may require annual tuberculin tests of any grades. All 22202
pupils with positive reactions to the test shall have chest x-rays 22203
and all positive reactions and x-ray findings shall be reported 22204
promptly to the county record bureau of tuberculosis cases 22205
provided for in section 339.74 of the Revised Code. Boards shall 22206
waive the required test where a pupil presents a written statement 22207
from the pupil's family physician certifying that such test has 22208
been given and that such pupil is free from tuberculosis in a 22209
communicable stage, or that such test is inadvisable for medical 22210
reasons, or from the pupil's parent or guardian objecting to such 22211
test because of religious convictions. 22212

Whenever a pupil, teacher, or other school employee is found 22213
to be ill or suffering from tuberculosis in a communicable stage 22214
or other communicable disease, the school physician shall promptly 22215

send such pupil, teacher, or other school employee home, with a statement, in the case of a pupil, to the pupil's parents or guardian, briefly setting forth the discovered facts, and advising that the family physician be consulted. School physicians shall keep accurate card-index records of all examinations, and said records, that they may be uniform throughout the state, shall be according to the form prescribed by the state board of education, and the reports shall be made according to the method of said form. If the parent or guardian of any pupil or any teacher or other school employee, after notice from the board of education, furnishes within two weeks thereafter the written certificate of any reputable physician that the pupil, teacher, or other school employee has been examined, in such cases the service of the school physician shall be dispensed with, and such certificate shall be furnished by such parent or guardian, as required by the board of education. Such individual records shall not be open to the public and shall be solely for the use of the boards of education and boards of health officer. If any teacher or other school employee is found to have tuberculosis in a communicable stage or other communicable disease, the teacher's or employee's employment shall be discontinued or suspended upon such terms as to salary as the board deems just until the school physician has certified to a recovery from such disease. The methods of making the tuberculin tests and chest x-rays required by this section shall be such as are approved by the director of health.

Sec. 3313.976. (A) No private school may receive scholarship payments from parents pursuant to section 3313.979 of the Revised Code until the chief administrator of the private school registers the school with the superintendent of public instruction. The state superintendent shall register any school that meets the following requirements:

(1) The school is located within the boundaries of the pilot

project school district; 22248

(2) The school indicates in writing its commitment to follow 22249
all requirements for a state-sponsored scholarship program 22250
specified under sections 3313.974 to 3313.979 of the Revised Code, 22251
including, but not limited to, the requirements for admitting 22252
students pursuant to section 3313.977 of the Revised Code; 22253

(3) The school meets all state minimum standards for 22254
chartered nonpublic schools in effect on July 1, 1992, except that 22255
the state superintendent at the superintendent's discretion may 22256
register nonchartered nonpublic schools meeting the other 22257
requirements of this division; 22258

(4) The school does not discriminate on the basis of race, 22259
religion, or ethnic background; 22260

(5) The school enrolls a minimum of ten students per class or 22261
a sum of at least twenty-five students in all the classes offered; 22262

(6) The school does not advocate or foster unlawful behavior 22263
or teach hatred of any person or group on the basis of race, 22264
ethnicity, national origin, or religion; 22265

(7) The school does not provide false or misleading 22266
information about the school to parents, students, or the general 22267
public; 22268

(8) For students in grades kindergarten through eight with 22269
family incomes at or below two hundred per cent of the federal 22270
poverty guidelines, as defined in section 5104.46 of the Revised 22271
Code, the school agrees not to charge any tuition ~~to low-income~~ 22272
~~families receiving ninety per cent of the scholarship amount~~ 22273
~~through the scholarship program, pursuant to division (A) of~~ 22274
~~section 3313.978 of the Revised Code~~, in excess of ~~ten per cent of~~ 22275
the scholarship amount established pursuant to division (C)(1) of 22276
section 3313.978 of the Revised Code, excluding any increase 22277
described in division (C)(2) of that section. ~~The school shall~~ 22278

~~permit any such tuition, at the discretion of the parent, to be~~ 22279
~~satisfied by the low income family's provision of in-kind~~ 22280
~~contributions or services.~~ 22281

(9) For students in grades kindergarten through eight with 22282
family incomes above two hundred per cent of the federal poverty 22283
guidelines, whose scholarship amounts are less than the actual 22284
tuition charge of the school, the school agrees not to charge any 22285
~~tuition to low income families receiving a seventy five per cent~~ 22286
~~scholarship amount through the scholarship program, pursuant to~~ 22287
~~division (A) of section 3313.978 of the Revised Code~~, in excess of 22288
the difference between the actual tuition charge of the school and 22289
~~seventy five per cent of the scholarship amount established~~ 22290
pursuant to division (C)(1) of section 3313.978 of the Revised 22291
Code, excluding any increase described in division (C)(2) of that 22292
section. The school shall permit such tuition, at the discretion 22293
of the parent, to be satisfied by the ~~low income~~ family's 22294
provision of in-kind contributions or services. 22295

(10) The school agrees not to charge any tuition to families 22296
of students in grades nine through twelve receiving a scholarship 22297
in excess of the actual tuition charge of the school less 22298
~~seventy five or ninety per cent of the scholarship amount~~ 22299
established pursuant to division (C)(1) of section 3313.978 of the 22300
Revised Code, ~~as applicable~~, excluding any increase described in 22301
division (C)(2) of that section. 22302

(11) Notwithstanding division (K) of section 3301.0711 of the 22303
Revised Code, the school annually administers the assessments 22304
prescribed by section 3301.0710 of the Revised Code to each 22305
scholarship student enrolled in the school in accordance with 22306
section 3301.0711 of the Revised Code and reports to the 22307
department of education the results of each such assessment 22308
administered to each scholarship student. 22309

(B) The state superintendent shall revoke the registration of 22310

any school if, after a hearing, the superintendent determines that 22311
the school is in violation of any of the provisions of division 22312
(A) of this section. 22313

(C) Any public school located in a school district adjacent 22314
to the pilot project district may receive scholarship payments on 22315
behalf of parents pursuant to section 3313.979 of the Revised Code 22316
if the superintendent of the district in which such public school 22317
is located notifies the state superintendent prior to the first 22318
day of March that the district intends to admit students from the 22319
pilot project district for the ensuing school year pursuant to 22320
section 3327.06 of the Revised Code. 22321

(D) Any parent wishing to purchase tutorial assistance from 22322
any person or governmental entity pursuant to the pilot project 22323
program under sections 3313.974 to 3313.979 of the Revised Code 22324
shall apply to the state superintendent. The state superintendent 22325
shall approve providers who appear to possess the capability of 22326
furnishing the instructional services they are offering to 22327
provide. 22328

Sec. 3313.978. (A) Annually by the first day of November, the 22329
superintendent of public instruction shall notify the pilot 22330
project school district of the number of initial scholarships that 22331
the state superintendent will be awarding in each of grades 22332
kindergarten through twelve. 22333

The state superintendent shall provide information about the 22334
scholarship program to all students residing in the district, 22335
shall accept applications from any such students until such date 22336
as shall be established by the state superintendent as a deadline 22337
for applications, and shall establish criteria for the selection 22338
of students to receive scholarships from among all those applying 22339
prior to the deadline, which criteria shall give preference to 22340
students from low-income families. ~~For each student selected, the~~ 22341

~~state superintendent shall also determine whether the student 22342
qualifies for seventy five or ninety per cent of the scholarship 22343
amount. Students whose family income is at or above two hundred 22344
per cent of the maximum income level established by the state 22345
superintendent for low income families shall qualify for 22346
seventy five per cent of the scholarship amount and students whose 22347
family income is below two hundred per cent of that maximum income 22348
level shall qualify for ninety per cent of the scholarship amount. 22349
The state superintendent shall notify students of their selection 22350
prior to the fifteenth day of January and whether they qualify for 22351
seventy five or ninety per cent of the scholarship amount. 22352~~

(1) A student receiving a pilot project scholarship may 22353
utilize it at an alternative public school by notifying the 22354
district superintendent, at any time before the beginning of the 22355
school year, of the name of the public school in an adjacent 22356
school district to which the student has been accepted pursuant to 22357
section 3327.06 of the Revised Code. 22358

(2) A student may decide to utilize a pilot project 22359
scholarship at a registered private school in the district if all 22360
of the following conditions are met: 22361

(a) By the fifteenth day of February of the preceding school 22362
year, or at any time prior to the start of the school year, the 22363
parent makes an application on behalf of the student to a 22364
registered private school. 22365

(b) The registered private school notifies the parent and the 22366
state superintendent as follows that the student has been 22367
admitted: 22368

(i) By the fifteenth day of March of the preceding school 22369
year if the student filed an application by the fifteenth day of 22370
February and was admitted by the school pursuant to division (A) 22371
of section 3313.977 of the Revised Code; 22372

(ii) Within one week of the decision to admit the student if 22373
the student is admitted pursuant to division (C) of section 22374
3313.977 of the Revised Code. 22375

(c) The student actually enrolls in the registered private 22376
school to which the student was first admitted or in another 22377
registered private school in the district or in a public school in 22378
an adjacent school district. 22379

(B) The state superintendent shall also award in any school 22380
year tutorial assistance grants to a number of students equal to 22381
the number of students who receive scholarships under division (A) 22382
of this section. Tutorial assistance grants shall be awarded 22383
solely to students who are enrolled in the public schools of the 22384
district in a grade level covered by the pilot project. Tutorial 22385
assistance grants may be used solely to obtain tutorial assistance 22386
from a provider approved pursuant to division (D) of section 22387
3313.976 of the Revised Code. 22388

All students wishing to obtain tutorial assistance grants 22389
shall make application to the state superintendent by the first 22390
day of the school year in which the assistance will be used. The 22391
state superintendent shall award assistance grants in accordance 22392
with criteria the superintendent shall establish. ~~For each student~~ 22393
~~awarded a grant, the state superintendent shall also determine~~ 22394
~~whether the student qualifies for seventy five or ninety per cent~~ 22395
~~of the grant amount and so notify the student. Students whose~~ 22396
~~family income is at or above two hundred per cent of the maximum~~ 22397
~~income level established by the state superintendent for~~ 22398
~~low income families shall qualify for seventy five per cent of the~~ 22399
~~grant amount and students whose family income is below two hundred~~ 22400
~~per cent of that maximum income level shall qualify for ninety per~~ 22401
~~cent of the grant amount.~~ 22402

(C)(1) In the case of basic scholarships for students in 22403
grades kindergarten through eight, the scholarship amount shall 22404

not exceed the lesser of the tuition charges of the alternative 22405
school the scholarship recipient attends or three thousand dollars 22406
before fiscal year 2007, three thousand four hundred fifty dollars 22407
in fiscal year 2007 through fiscal year 2011, and four thousand 22408
two hundred fifty dollars in fiscal year 2012 and thereafter. 22409

In the case of basic scholarships for students in grades nine 22410
through twelve, the scholarship amount shall not exceed the lesser 22411
of the tuition charges of the alternative school the scholarship 22412
recipient attends or two thousand seven hundred dollars before 22413
fiscal year 2007, three thousand four hundred fifty dollars in 22414
fiscal year 2007 through fiscal year 2011, and five thousand 22415
dollars in fiscal year 2012 and thereafter. 22416

(2) The state superintendent shall provide for an increase in 22417
the basic scholarship amount in the case of any student who is a 22418
mainstreamed student with a disability and shall further increase 22419
such amount in the case of any separately educated student with a 22420
disability. Such increases shall take into account the 22421
instruction, related services, and transportation costs of 22422
educating such students. 22423

(3) In the case of tutorial assistance grants, the grant 22424
amount shall not exceed the lesser of the provider's actual 22425
charges for such assistance or: 22426

(a) Before fiscal year 2007, a percentage established by the 22427
state superintendent, not to exceed twenty per cent, of the amount 22428
of the pilot project school district's average basic scholarship 22429
amount; 22430

(b) In fiscal year 2007 and thereafter, four hundred dollars. 22431

~~(4) No scholarship or tutorial assistance grant shall be 22432
awarded unless the state superintendent determines that 22433
twenty five or ten per cent, as applicable, of the amount 22434
specified for such scholarship or grant pursuant to division 22435~~

~~(C)(1), (2), or (3) of this section will be furnished by a 22436
political subdivision, a private nonprofit or for profit entity, 22437
or another person. Only seventy five or ninety per cent of such 22438
amounts, as applicable, shall be paid from state funds pursuant to 22439
section 3313.979 of the Revised Code. 22440~~

(D)(1) Annually by the first day of November, the state 22441
superintendent shall estimate the maximum per-pupil scholarship 22442
amounts for the ensuing school year. The state superintendent 22443
shall make this estimate available to the general public at the 22444
offices of the district board of education together with the forms 22445
required by division (D)(2) of this section. 22446

(2) Annually by the fifteenth day of January, the chief 22447
administrator of each registered private school located in the 22448
pilot project district and the principal of each public school in 22449
such district shall complete a parental information form and 22450
forward it to the president of the board of education. The 22451
parental information form shall be prescribed by the department of 22452
education and shall provide information about the grade levels 22453
offered, the numbers of students, tuition amounts, achievement 22454
test results, and any sectarian or other organizational 22455
affiliations. 22456

(E)(1) Only for the purpose of administering the pilot 22457
project scholarship program, the department may request from any 22458
of the following entities the data verification code assigned 22459
under division (D)(2) of section 3301.0714 of the Revised Code to 22460
any student who is seeking a scholarship under the program: 22461

(a) The school district in which the student is entitled to 22462
attend school under section 3313.64 or 3313.65 of the Revised 22463
Code; 22464

(b) If applicable, the community school in which the student 22465
is enrolled; 22466

(c) The independent contractor engaged to create and maintain data verification codes. 22467
22468

(2) Upon a request by the department under division (E)(1) of this section for the data verification code of a student seeking a scholarship or a request by the student's parent for that code, the school district or community school shall submit that code to the department or parent in the manner specified by the department. If the student has not been assigned a code, because the student will be entering kindergarten during the school year for which the scholarship is sought, the district shall assign a code to that student and submit the code to the department or parent by a date specified by the department. If the district does not assign a code to the student by the specified date, the department shall assign a code to the student. 22469
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The department annually shall submit to each school district the name and data verification code of each student residing in the district who is entering kindergarten, who has been awarded a scholarship under the program, and for whom the department has assigned a code under this division. 22481
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22484
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(3) The department shall not release any data verification code that it receives under division (E) of this section to any person except as provided by law. 22486
22487
22488

(F) Any document relative to the pilot project scholarship program that the department holds in its files that contains both a student's name or other personally identifiable information and the student's data verification code shall not be a public record under section 149.43 of the Revised Code. 22489
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(G)(1) The department annually shall compile the scores attained by scholarship students enrolled in registered private schools on the assessments administered to the students pursuant to division (A)(11) of section 3313.976 of the Revised Code. The 22494
22495
22496
22497

scores shall be aggregated as follows: 22498

(a) By school district, which shall include all scholarship 22499
students residing in the pilot project school district who are 22500
enrolled in a registered private school and were required to take 22501
an assessment pursuant to division (A)(11) of section 3313.976 of 22502
the Revised Code; 22503

(b) By registered private school, which shall include all 22504
scholarship students enrolled in that school who were required to 22505
take an assessment pursuant to division (A)(11) of section 22506
3313.976 of the Revised Code. 22507

(2) The department shall disaggregate the student performance 22508
data described in division (G)(1) of this section according to the 22509
following categories: 22510

(a) Age; 22511

(b) Race and ethnicity; 22512

(c) Gender; 22513

(d) Students who have participated in the scholarship program 22514
for three or more years; 22515

(e) Students who have participated in the scholarship program 22516
for more than one year and less than three years; 22517

(f) Students who have participated in the scholarship program 22518
for one year or less; 22519

(g) Economically disadvantaged students. 22520

(3) The department shall post the student performance data 22521
required under divisions (G)(1) and (2) of this section on its web 22522
site and shall include that data in the information about the 22523
scholarship program provided to students under division (A) of 22524
this section. In reporting student performance data under this 22525
division, the department shall not include any data that is 22526
statistically unreliable or that could result in the 22527

identification of individual students. For this purpose, the 22528
department shall not report performance data for any group that 22529
contains less than ten students. 22530

(4) The department shall provide the parent of each 22531
scholarship student enrolled in a registered private school with 22532
information comparing the student's performance on the assessments 22533
administered pursuant to division (A)(11) of section 3313.976 of 22534
the Revised Code with the average performance of similar students 22535
enrolled in the building operated by the pilot project school 22536
district that the scholarship student would otherwise attend. In 22537
calculating the performance of similar students, the department 22538
shall consider age, grade, race and ethnicity, gender, and 22539
socioeconomic status. 22540

Sec. 3313.979. Each scholarship to be used for payments to a 22541
registered private school is payable to the parents of the student 22542
entitled to the scholarship. Each scholarship to be used for 22543
payments to a public school in an adjacent school district is 22544
payable to the school district of attendance by the superintendent 22545
of public instruction. Each grant to be used for payments to an 22546
approved tutorial assistance provider is payable to the approved 22547
tutorial assistance provider. 22548

(A)(1) By the fifteenth day of each month of the school year 22549
that any scholarship students are enrolled in a registered private 22550
school, the chief administrator of that school shall notify the 22551
state superintendent of: 22552

(a) The number of scholarship students who were reported to 22553
the school district as having been admitted by that private school 22554
pursuant to division (A)(2)(b) of section 3313.978 of the Revised 22555
Code and who were still enrolled in the private school as of the 22556
first day of such month, ~~and the numbers of such students who~~ 22557
~~qualify for seventy five and ninety per cent of the scholarship~~ 22558

amount; 22559

(b) The number of scholarship students who were reported to 22560
the school district as having been admitted by another private 22561
school pursuant to division (A)(2)(b) of section 3313.978 of the 22562
Revised Code and since the date of admission have transferred to 22563
the school providing the notification under division (A)(1) of 22564
this section, ~~and the numbers of such students who qualify for~~ 22565
~~seventy five and ninety per cent of the scholarship amount.~~ 22566

(2) From time to time, the state superintendent shall make a 22567
payment to the parent of each student entitled to a scholarship. 22568
Each payment shall include for each student reported under 22569
division (A)(1) of this section, a portion of ~~seventy five or~~ 22570
~~ninety per cent, as applicable, of~~ the scholarship amount 22571
specified in divisions (C)(1) and (2) of section 3313.978 of the 22572
Revised Code. This amount shall be proportionately reduced in the 22573
case of any such student who is not enrolled in a registered 22574
private school for the entire school year. 22575

(3) The first payment under this division shall be made by 22576
the last day of November and shall equal one-third of ~~seventy five~~ 22577
~~or ninety per cent, as applicable, of~~ the estimated total amount 22578
that will be due to the parent for the school year pursuant to 22579
division (A)(2) of this section. 22580

(B) The state superintendent, on behalf of the parents of a 22581
scholarship student enrolled in a public school in an adjacent 22582
school district pursuant to section 3327.06 of the Revised Code, 22583
shall make the tuition payments required by that section to the 22584
school district admitting the student, except that, 22585
notwithstanding sections 3323.13, 3323.14, and 3327.06 of the 22586
Revised Code, the total payments in any school year shall not 22587
exceed ~~seventy five or ninety per cent, as applicable, of~~ the 22588
scholarship amount provided in divisions (C)(1) and (2) of section 22589
3313.978 of the Revised Code. 22590

(C) Whenever an approved provider provides tutorial assistance to a student, the state superintendent shall pay the approved provider for such costs upon receipt of a statement specifying the services provided and the costs of the services, which statement shall be signed by the provider and verified by the chief administrator having supervisory control over the tutoring site. The total payments to any approved provider under this division for all provider services to any individual student in any school year shall not exceed ~~seventy five or ninety per cent, as applicable,~~ of the grant amount provided in division (C)(3) of section 3313.978 of the Revised Code.

Sec. 3318.034. (A) This section applies to both of the following:

(1) Any school district that has not executed an agreement for a project under sections 3318.01 to 3318.20 of the Revised Code prior to June 24, 2008;

(2) Any school district that is eligible for additional assistance under sections 3318.01 to 3318.20 of the Revised Code pursuant to division (B)(2) of section 3318.04 of the Revised Code.

Notwithstanding any provision of this chapter to the contrary, with the approval of the Ohio school facilities commission, any school district to which this section applies may opt to divide the district's entire classroom facilities needs, as those needs are jointly determined by the staff of the commission and the school district, into discrete segments and shall comply with all of the provisions of those sections unless otherwise provided in this section.

(B) Except as provided in division (C) of this section, each segment shall comply with all of the following:

(1) The segment shall consist of the new construction of one 22621
or more entire buildings or the complete renovation of one or more 22622
entire existing buildings, with any necessary additions to that 22623
building. 22624

(2) The segment shall not include any construction of or 22625
renovation or repair to any building that does not complete the 22626
needs of the district with respect to that particular building at 22627
the time the segment is completed. 22628

(3) The segment shall consist of new construction, 22629
renovations, additions, reconstruction, or repair of classroom 22630
facilities to the extent that the school district portion, as 22631
determined under section 3318.032 of the Revised Code, is an 22632
amount not less than the product of 0.040 times the district's 22633
valuation at the time the agreement for the segment is executed, 22634
unless the district previously has undertaken a segment under this 22635
section and the district's portion of the estimated basic project 22636
cost of the remainder of its entire classroom facilities needs, as 22637
determined jointly by the staff of the commission and the 22638
district, is less than the amount otherwise required by this 22639
division. 22640

(C) A district described in division (A)(2) of this section 22641
that has not received the additional assistance authorized under 22642
division (B)(2) of section 3318.04 of the Revised Code may 22643
undertake a segment, with commission approval, for the purpose of 22644
renovating or replacing work performed on a facility under the 22645
district's prior project. The commission may approve that segment 22646
if the commission determines that the renovation or replacement is 22647
necessary to protect the facility. The basic project cost of the 22648
segment shall be allocated between the state and the district in 22649
accordance with section 3318.032 of the Revised Code. However, the 22650
requirements of division (B) of this section shall not apply to a 22651
segment undertaken under this division. 22652

(D) The commission shall conditionally approve and seek 22653
controlling board approval in accordance with division (A) of 22654
section 3318.04 of the Revised Code of each segment. 22655

(E) ~~The school district's maintenance levy requirement, as~~ 22656
~~defined in section 3318.18 of the Revised Code, (1) When~~ 22657
undertaking a segment under this section, a school district may 22658
elect to prorate its full maintenance amount by setting aside for 22659
maintenance the amount calculated under division (E)(2) of this 22660
section to maintain the classroom facilities acquired under the 22661
segment, if the district will use one or more of the alternative 22662
methods authorized in sections 3318.051, 3318.052, and 3318.084 of 22663
the Revised Code to generate the entire amount calculated under 22664
that division. If the district so elects, the commission and the 22665
district shall include in the agreement entered into under section 22666
3318.08 of the Revised Code a statement specifying that the 22667
district will use the amount calculated under that division only 22668
to maintain the classroom facilities acquired under the segment. 22669

(2) The commission shall calculate the amount for a school 22670
district to maintain the classroom facilities acquired under a 22671
segment as follows: 22672

The full maintenance amount X (the school district's portion 22673
of the basic project cost for the segment / the school district's 22674
portion of the basic project cost for the district's entire 22675
classroom facilities needs, as determined jointly by the staff of 22676
the commission and the district) 22677

(3) A school district may elect to prorate its full 22678
maintenance amount for any number of segments, provided the 22679
district will use one or more of the alternative methods 22680
authorized in sections 3318.051, 3318.052, and 3318.084 of the 22681
Revised Code to generate the entire amount calculated under 22682
division (E)(2) of this section to maintain the classroom 22683
facilities acquired under each segment for which it so elects. If 22684

the district cannot use one or more of those alternative methods 22685
to generate the entire amount calculated under that division, the 22686
district shall levy the tax described in division (B) of section 22687
3318.05 of the Revised Code or an extension of that tax under 22688
section 3318.061 of the Revised Code in an amount necessary to 22689
generate the remainder of its full maintenance amount. The 22690
commission shall calculate the remainder of the district's full 22691
maintenance amount as follows: 22692

The full maintenance amount - the sum of the amounts 22693
calculated for the district under division (E)(2) of this section 22694
for each prior segment of the district's project 22695

(4) In no case shall the sum of the amounts calculated for a 22696
school district's maintenance of classroom facilities under 22697
divisions (E)(2) and (3) of this section exceed the amount that 22698
would have been required for maintenance if the district had 22699
elected to undertake its project in its entirety instead of 22700
segmenting the project under this section. 22701

(5) If a school district commenced a segment under this 22702
section prior to the effective date of this amendment but has not 22703
completed that segment, and has not levied the tax described in 22704
division (B) of section 3318.05 of the Revised Code or an 22705
extension of that tax under section 3318.061 of the Revised Code, 22706
the district may request approval from the commission to prorate 22707
its full maintenance amount in accordance with divisions (E)(1) to 22708
(4) of this section. If the commission approves the request, the 22709
commission and the district shall amend the agreement entered into 22710
under section 3318.08 of the Revised Code to reflect the change. 22711

(F) If a school district levies the tax described in division 22712
(B) of section 3318.05 of the Revised Code or an extension of that 22713
tax under section 3318.061 of the Revised Code, the tax shall run 22714
for twenty-three years from the date the ~~first~~ segment for which 22715
the tax is initially levied is undertaken; however, the. The 22716

maintenance levy requirement, as defined in section 3318.18 of the Revised Code, does not apply to a segment undertaken under division (C) of this section.

(G) As used in this section, "full maintenance amount" means the amount of total revenue that a school district likely would generate by one-half mill of the tax described in division (B) of section 3318.05 of the Revised Code over the entire twenty-three-year period required under that section, as determined by the commission in consultation with the department of taxation.

Sec. 3318.08. Except in the case of a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, if the requisite favorable vote on the election is obtained, or if the school district board has resolved to apply the proceeds of a property tax levy or the proceeds of an income tax, or a combination of proceeds from such taxes, as authorized in section 3318.052 of the Revised Code, the Ohio school facilities commission, upon certification to it of either the results of the election or the resolution under section 3318.052 of the Revised Code, shall enter into a written agreement with the school district board for the construction and sale of the project. In the case of a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, if the school district board of education and the school district electors have satisfied the conditions prescribed in division (D)(1) of section 3318.41 of the Revised Code, the commission shall enter into an agreement with the school district board for the construction and sale of the project. In either case, the agreement shall include, but need not be limited to, the following provisions:

(A) The sale and issuance of bonds or notes in anticipation

thereof, as soon as practicable after the execution of the 22748
agreement, in an amount equal to the school district's portion of 22749
the basic project cost, including any securities authorized under 22750
division (J) of section 133.06 of the Revised Code and dedicated 22751
by the school district board to payment of the district's portion 22752
of the basic project cost of the project; provided, that if at 22753
that time the county treasurer of each county in which the school 22754
district is located has not commenced the collection of taxes on 22755
the general duplicate of real and public utility property for the 22756
year in which the controlling board approved the project, the 22757
school district board shall authorize the issuance of a first 22758
installment of bond anticipation notes in an amount specified by 22759
the agreement, which amount shall not exceed an amount necessary 22760
to raise the net bonded indebtedness of the school district as of 22761
the date of the controlling board's approval to within five 22762
thousand dollars of the required level of indebtedness for the 22763
preceding year. In the event that a first installment of bond 22764
anticipation notes is issued, the school district board shall, as 22765
soon as practicable after the county treasurer of each county in 22766
which the school district is located has commenced the collection 22767
of taxes on the general duplicate of real and public utility 22768
property for the year in which the controlling board approved the 22769
project, authorize the issuance of a second and final installment 22770
of bond anticipation notes or a first and final issue of bonds. 22771

The combined value of the first and second installment of 22772
bond anticipation notes or the value of the first and final issue 22773
of bonds shall be equal to the school district's portion of the 22774
basic project cost. The proceeds of any such bonds shall be used 22775
first to retire any bond anticipation notes. Otherwise, the 22776
proceeds of such bonds and of any bond anticipation notes, except 22777
the premium and accrued interest thereon, shall be deposited in 22778
the school district's project construction fund. In determining 22779
the amount of net bonded indebtedness for the purpose of fixing 22780

the amount of an issue of either bonds or bond anticipation notes, 22781
gross indebtedness shall be reduced by moneys in the bond 22782
retirement fund only to the extent of the moneys therein on the 22783
first day of the year preceding the year in which the controlling 22784
board approved the project. Should there be a decrease in the tax 22785
valuation of the school district so that the amount of 22786
indebtedness that can be incurred on the tax duplicates for the 22787
year in which the controlling board approved the project is less 22788
than the amount of the first installment of bond anticipation 22789
notes, there shall be paid from the school district's project 22790
construction fund to the school district's bond retirement fund to 22791
be applied against such notes an amount sufficient to cause the 22792
net bonded indebtedness of the school district, as of the first 22793
day of the year following the year in which the controlling board 22794
approved the project, to be within five thousand dollars of the 22795
required level of indebtedness for the year in which the 22796
controlling board approved the project. The maximum amount of 22797
indebtedness to be incurred by any school district board as its 22798
share of the cost of the project is either an amount that will 22799
cause its net bonded indebtedness, as of the first day of the year 22800
following the year in which the controlling board approved the 22801
project, to be within five thousand dollars of the required level 22802
of indebtedness, or an amount equal to the required percentage of 22803
the basic project costs, whichever is greater. All bonds and bond 22804
anticipation notes shall be issued in accordance with Chapter 133. 22805
of the Revised Code, and notes may be renewed as provided in 22806
section 133.22 of the Revised Code. 22807

(B) The transfer of such funds of the school district board 22808
available for the project, together with the proceeds of the sale 22809
of the bonds or notes, except premium, accrued interest, and 22810
interest included in the amount of the issue, to the school 22811
district's project construction fund; 22812

(C) For all school districts except joint vocational school 22813
districts that receive assistance under sections 3318.40 to 22814
3318.45 of the Revised Code, the following provisions as 22815
applicable: 22816

(1) If section 3318.052 of the Revised Code applies, the 22817
earmarking of the proceeds of a tax levied under section 5705.21 22818
of the Revised Code for general permanent improvements or under 22819
section 5705.218 of the Revised Code for the purpose of permanent 22820
improvements, or the proceeds of a school district income tax 22821
levied under Chapter 5748. of the Revised Code, or the proceeds 22822
from a combination of those two taxes, in an amount to pay all or 22823
part of the service charges on bonds issued to pay the school 22824
district portion of the project and an amount equivalent to all or 22825
part of the tax required under division (B) of section 3318.05 of 22826
the Revised Code; 22827

(2) If section 3318.052 of the Revised Code does not apply, 22828
one of the following: 22829

(a) The levy of the tax authorized at the election for the 22830
payment of maintenance costs, as specified in division (B) of 22831
section 3318.05 of the Revised Code; 22832

(b) If the school district electors have approved a 22833
continuing tax for general permanent improvements under section 22834
5705.21 of the Revised Code and that tax can be used for 22835
maintenance, the earmarking of an amount of the proceeds from such 22836
tax for maintenance of classroom facilities as specified in 22837
division (B) of section 3318.05 of the Revised Code; 22838

(c) If, in lieu of the tax otherwise required under division 22839
(B) of section 3318.05 of the Revised Code, the commission has 22840
approved the transfer of money to the maintenance fund in 22841
accordance with section 3318.051 of the Revised Code, a 22842
requirement that the district board comply with the provisions 22843

that section. The district board may rescind the provision 22844
prescribed under division (C)(2)(c) of this section only so long 22845
as the electors of the district have approved, in accordance with 22846
section 3318.063 of the Revised Code, the levy of a tax for the 22847
maintenance of the classroom facilities acquired under the 22848
district's project and that levy continues to be collected as 22849
approved by the electors. 22850

(D) For joint vocational school districts that receive 22851
assistance under sections 3318.40 to 3318.45 of the Revised Code, 22852
provision for deposit of school district moneys dedicated to 22853
maintenance of the classroom facilities acquired under those 22854
sections as prescribed in section 3318.43 of the Revised Code; 22855

(E) Dedication of any local donated contribution as provided 22856
for under section 3318.084 of the Revised Code, including a 22857
schedule for depositing such moneys applied as an offset of the 22858
district's obligation to levy the tax described in division (B) of 22859
section 3318.05 of the Revised Code as required under division 22860
(D)(2) of section 3318.084 of the Revised Code; 22861

(F) Ownership of or interest in the project during the period 22862
of construction, which shall be divided between the commission and 22863
the school district board in proportion to their respective 22864
contributions to the school district's project construction fund; 22865

(G) Maintenance of the state's interest in the project until 22866
any obligations issued for the project under section 3318.26 of 22867
the Revised Code are no longer outstanding; 22868

(H) The insurance of the project by the school district from 22869
the time there is an insurable interest therein and so long as the 22870
state retains any ownership or interest in the project pursuant to 22871
division (F) of this section, in such amounts and against such 22872
risks as the commission shall require; provided, that the cost of 22873
any required insurance until the project is completed shall be a 22874

part of the basic project cost; 22875

(I) The certification by the director of budget and 22876
management that funds are available and have been set aside to 22877
meet the state's share of the basic project cost as approved by 22878
the controlling board pursuant to either section 3318.04 or 22879
division (B)(1) of section 3318.41 of the Revised Code; 22880

(J) Authorization of the school district board to advertise 22881
for and receive construction bids for the project, for and on 22882
behalf of the commission, and to award contracts in the name of 22883
the state subject to approval by the commission; 22884

(K) Provisions for the disbursement of moneys from the school 22885
district's project account upon issuance by the commission or the 22886
commission's designated representative of vouchers for work done 22887
to be certified to the commission by the treasurer of the school 22888
district board; 22889

(L) Disposal of any balance left in the school district's 22890
project construction fund upon completion of the project; 22891

(M) Limitations upon use of the project or any part of it so 22892
long as any obligations issued to finance the project under 22893
section 3318.26 of the Revised Code are outstanding; 22894

(N) Provision for vesting the state's interest in the project 22895
to the school district board when the obligations issued to 22896
finance the project under section 3318.26 of the Revised Code are 22897
outstanding; 22898

(O) Provision for deposit of an executed copy of the 22899
agreement in the office of the commission; 22900

(P) Provision for termination of the contract and release of 22901
the funds encumbered at the time of the conditional approval, if 22902
the proceeds of the sale of the bonds of the school district board 22903
are not paid into the school district's project construction fund 22904

and if bids for the construction of the project have not been 22905
taken within such period after the execution of the agreement as 22906
may be fixed by the commission; 22907

(Q) Provision for the school district to maintain the project 22908
in accordance with a plan approved by the commission and to comply 22909
with the plan; 22910

(R) Provision that all state funds reserved and encumbered to 22911
pay the state share of the cost of the project and the funds 22912
provided by the school district to pay for its share of the 22913
project cost, including the respective shares of the cost of a 22914
segment if the project is divided into segments, be spent on the 22915
construction and acquisition of the project or segment 22916
simultaneously in proportion to the state's and the school 22917
district's respective shares of that basic project cost as 22918
determined under section 3318.032 of the Revised Code or, if the 22919
district is a joint vocational school district, under section 22920
3318.42 of the Revised Code. However, if the school district 22921
certifies to the commission that expenditure by the school 22922
district is necessary to maintain the federal tax status or 22923
tax-exempt status of notes or bonds issued by the school district 22924
to pay for its share of the project cost or to comply with 22925
applicable temporary investment periods or spending exceptions to 22926
rebate as provided for under federal law in regard to those notes 22927
or bonds, the school district may commit to spend, or spend, a 22928
greater portion of the funds it provides during any specific 22929
period than would otherwise be required under this division. 22930

(S) A provision stipulating that the commission may prohibit 22931
the district from proceeding with any project if the commission 22932
determines that the site is not suitable for construction 22933
purposes. The commission may perform soil tests in its 22934
determination of whether a site is appropriate for construction 22935
purposes. 22936

(T) A provision stipulating that, unless otherwise authorized 22937
by the commission, any contingency reserve portion of the 22938
construction budget prescribed by the commission shall be used 22939
only to pay costs resulting from unforeseen job conditions, to 22940
comply with rulings regarding building and other codes, to pay 22941
costs related to design clarifications or corrections to contract 22942
documents, and to pay the costs of settlements or judgments 22943
related to the project as provided under section 3318.086 of the 22944
Revised Code; 22945

(U) Provision stipulating that for continued release of 22946
project funds the school district board shall comply with section 22947
3313.41 of the Revised Code throughout the project and shall 22948
notify the department of education and the Ohio community school 22949
association when the board plans to dispose of facilities by sale 22950
under that section; 22951

(V) Provision that the commission shall not approve a 22952
contract for demolition of a facility until the school district 22953
board has complied with section 3313.41 of the Revised Code 22954
relative to that facility, unless demolition of that facility is 22955
to clear a site for construction of a replacement facility 22956
included in the district's project. 22957

Sec. 3318.10. When such working drawings, specifications, and 22958
estimates of cost have been approved by the school district board 22959
and the Ohio school facilities commission, the treasurer of the 22960
school district board shall advertise for construction bids in 22961
accordance with section 3313.46 of the Revised Code. Such notices 22962
shall state that plans and specifications for the project are on 22963
file in the office of the commission and such other place as may 22964
be designated in such notice, and the time and place when and 22965
where bids therefor will be received. 22966

The form of proposal to be submitted by bidders shall be 22967

supplied by the commission. Bidders may be permitted to bid upon 22968
all the branches of work and materials to be furnished and 22969
supplied, upon any branch thereof, or upon all or any thereof. 22970

When the construction bids for all branches of work and 22971
materials have been tabulated, the commission shall cause to be 22972
prepared a revised estimate of the basic project cost based upon 22973
the lowest responsible bids received. If such revised estimate 22974
exceeds the estimated basic project cost as approved by the 22975
controlling board pursuant to section 3318.04 or division (B)(1) 22976
of section 3318.41 of the Revised Code, no contracts may be 22977
entered into pursuant to this section unless such revised estimate 22978
is approved by the commission and by the controlling board. When 22979
such revised estimate has been prepared, and after such approvals 22980
are given, if necessary, and if the school district board has 22981
caused to be transferred to the project construction fund the 22982
proceeds from the sale of the first or first and final installment 22983
of its bonds or bond anticipation notes pursuant to the provision 22984
of the written agreement required by division (B) of section 22985
3318.08 of the Revised Code, and when the director of budget and 22986
management has certified that there is a balance in the 22987
appropriation, not otherwise obligated to pay precedent 22988
obligations, pursuant to which the state's share of such revised 22989
estimate is required to be paid, the contract for all branches of 22990
work and materials to be furnished and supplied, or for any branch 22991
thereof as determined by the school district board, shall be 22992
awarded by the school district board to the lowest responsible 22993
bidder subject to the approval of the commission. Such award shall 22994
be made within sixty days after the date on which the bids are 22995
opened, and the successful bidder shall enter into a contract 22996
within ten days after the successful bidder is notified of the 22997
award of the contract. 22998

Subject to the approval of the commission, the school 22999

district board may reject all bids and readvertise. Any contract 23000
made under this section shall be made in the name of the state and 23001
executed on its behalf by the president and treasurer of the 23002
school district board. 23003

The provisions of sections 9.312 and 3313.46 of the Revised 23004
Code, which are applicable to construction contracts of boards of 23005
education, shall apply to construction contracts for the project. 23006

The remedies afforded to any subcontractor, materials 23007
supplier, laborer, mechanic, or persons furnishing material or 23008
machinery for the project under sections 1311.26 to 1311.32 of the 23009
Revised Code, shall apply to contracts entered into under this 23010
section and the itemized statement required by section 1311.26 of 23011
the Revised Code shall be filed with the school district board. 23012

Notwithstanding any other requirement of this section, a 23013
school district, with the approval of the commission, may utilize 23014
any otherwise lawful alternative construction delivery method for 23015
the construction of the project. 23016

Sec. 3318.30. (A) There is hereby created the Ohio school 23017
facilities commission as an independent agency of the state within 23018
the Ohio facilities construction commission, which is created 23019
under section 123.20 of the Revised Code. The Ohio school 23020
facilities commission shall administer the provision of financial 23021
assistance to school districts for the acquisition or construction 23022
of classroom facilities in accordance with sections 3318.01 to 23023
3318.33 of the Revised Code. 23024

The Ohio school facilities commission is a body corporate and 23025
politic, an agency of state government and an instrumentality of 23026
the state, performing essential governmental functions of this 23027
state. The carrying out of the purposes and the exercise by the 23028
Ohio school facilities commission of its powers conferred by 23029
sections 3318.01 to 3318.33 of the Revised Code are essential 23030

public functions and public purposes of the state. The Ohio school facilities commission may, in its own name, sue and be sued, enter into contracts, and perform all the powers and duties given to it by sections 3318.01 to 3318.33 of the Revised Code, but it does not have and shall not exercise the power of eminent domain. In its discretion and as it determines appropriate, the Ohio school facilities commission may delegate to any of its members, executive director, or other employees any of the Ohio school facilities commission's powers and duties to carry out its functions.

(B) The Ohio school facilities commission shall consist of seven members, three of whom are voting members. The voting members of the Ohio school facilities commission shall be the director of the office of budget and management, the director of administrative services, and the superintendent of public instruction, or their designees. Of the nonvoting members, two shall be members of the senate appointed by the president of the senate, and two shall be members of the house of representatives appointed by the speaker of the house. Each of the appointees of the president, and each of the appointees of the speaker, shall be members of different political parties.

Nonvoting members shall serve as members of the Ohio school facilities commission during the legislative biennium for which they are appointed, except that any such member who ceases to be a member of the legislative house from which the member was appointed shall cease to be a member of the Ohio school facilities commission. Each nonvoting member shall be appointed within thirty-one days of the end of the term of that member's predecessor. Such members may be reappointed. Vacancies of nonvoting members shall be filled in the manner provided for original appointments.

Members of the Ohio school facilities commission shall serve

without compensation. 23063

After the initial nonvoting members of the Ohio school facilities commission have been appointed, the Ohio school facilities commission shall meet and organize by electing voting members as the chairperson and vice-chairperson of the Ohio school facilities commission, who shall hold their offices until the next organizational meeting of the Ohio school facilities commission. Organizational meetings of the Ohio school facilities commission shall be held at the first meeting of each calendar year. At each organizational meeting, the Ohio school facilities commission shall elect from among its voting members a chairperson and vice-chairperson, who shall serve until the next annual organizational meeting. The Ohio school facilities commission shall adopt rules pursuant to section 111.15 of the Revised Code for the conduct of its internal business and shall keep a journal of its proceedings. Including the organizational meeting, the Ohio school facilities commission shall meet at least once each calendar quarter.

Two voting members of the Ohio school facilities commission constitute a quorum, and the affirmative vote of two members is necessary for approval of any action taken by the Ohio school facilities commission. A vacancy in the membership of the Ohio school facilities commission does not impair a quorum from exercising all the rights and performing all the duties of the Ohio school facilities commission. Meetings of the Ohio school facilities commission may be held anywhere in the state and shall be held in compliance with section 121.22 of the Revised Code.

(C) The Ohio school facilities commission shall file an annual report of its activities and finances with the governor, speaker of the house of representatives, president of the senate, and chairpersons of the house and senate finance committees.

(D) The Ohio school facilities commission shall be exempt

from the requirements of sections 101.82 to 101.87 of the Revised Code. 23095
23096

(E) The Ohio school facilities commission may share employees and facilities with the Ohio facilities construction commission. 23097
23098

Sec. 3318.31. (A) The Ohio school facilities commission may 23099
perform any act and ensure the performance of any function 23100
necessary or appropriate to carry out the purposes of, and 23101
exercise the powers granted under, Chapter 3318. of the Revised 23102
Code, including any of the following: 23103

(1) Adopt, amend, and rescind, pursuant to section 111.15 of 23104
the Revised Code, rules for the administration of programs 23105
authorized under Chapter 3318. of the Revised Code. 23106

(2) Contract with, retain the services of, or designate, and 23107
fix the compensation of, such agents, accountants, consultants, 23108
advisers, and other independent contractors as may be necessary or 23109
desirable to carry out the programs authorized under Chapter 3318. 23110
of the Revised Code, or authorize the executive director to 23111
perform such powers and duties. 23112

(3) Receive and accept any gifts, grants, donations, and 23113
pledges, and receipts therefrom, to be used for the programs 23114
authorized under Chapter 3318. of the Revised Code. 23115

(4) Make and enter into all contracts, commitments, and 23116
agreements, and execute all instruments, necessary or incidental 23117
to the performance of its duties and the execution of its rights 23118
and powers under Chapter 3318. of the Revised Code, or authorize 23119
the executive director to perform such powers and duties. 23120

(5) Request the ~~director of administrative services~~ Ohio 23121
facilities construction commission to debar a contractor as 23122
provided in section 153.02 of the Revised Code. 23123

(B) The Ohio school facilities commission shall appoint and 23124

fix the compensation of an executive director who shall serve at 23125
the pleasure of the Ohio school facilities commission. The 23126
executive director shall exercise all powers that the Ohio school 23127
facilities commission possesses, supervise the operations of the 23128
Ohio school facilities commission and perform such other duties as 23129
delegated by the Ohio school facilities commission. The executive 23130
director also shall employ and fix the compensation of such 23131
employees as will facilitate the activities and purposes of the 23132
Ohio school facilities commission, who shall serve at the pleasure 23133
of the executive director. The employees of the Ohio school 23134
facilities commission shall be exempt from Chapter 4117. of the 23135
Revised Code and shall not be public employees as defined in 23136
section 4117.01 of the Revised Code. 23137

(C) The Ohio school facilities commission may adopt, amend, 23138
and rescind rules pertaining to the administration of the 23139
construction of school facilities of the state under Chapter 119. 23140
of the Revised Code. 23141

(D) The attorney general shall serve as the legal 23142
representative for the Ohio school facilities commission and may 23143
appoint other counsel as necessary for that purpose in accordance 23144
with section 109.07 of the Revised Code. 23145

Sec. 3318.36. (A)(1) As used in this section: 23146

(a) "Ohio school facilities commission," "classroom 23147
facilities," "school district," "school district board," "net 23148
bonded indebtedness," "required percentage of the basic project 23149
costs," "basic project cost," "valuation," and "percentile" have 23150
the same meanings as in section 3318.01 of the Revised Code. 23151

(b) "Required level of indebtedness" means five per cent of 23152
the school district's valuation for the year preceding the year in 23153
which the commission and school district enter into an agreement 23154
under division (B) of this section, plus [two one-hundredths of 23155

one per cent multiplied by (the percentile in which the district ranks minus one)].

(c) "Local resources" means any moneys generated in any manner permitted for a school district board to raise the school district portion of a project undertaken with assistance under sections 3318.01 to 3318.20 of the Revised Code.

(d) "Tangible personal property phase-out impacted district" means a school district for which the taxable value of its tangible personal property certified under division (A)(2) of section 3317.021 of the Revised Code for tax year 2005, excluding the taxable value of public utility personal property, made up eighteen per cent or more of its total taxable value for tax year 2005 as certified under that section.

(2) For purposes of determining the required level of indebtedness, the required percentage of the basic project costs under division (C)(1) of this section, and priority for assistance under sections 3318.01 to 3318.20 of the Revised Code, the percentile ranking of a school district with which the commission has entered into an agreement under this section between the first day of July and the thirty-first day of August in each fiscal year is the percentile ranking calculated for that district for the immediately preceding fiscal year, and the percentile ranking of a school district with which the commission has entered into such agreement between the first day of September and the thirtieth day of June in each fiscal year is the percentile ranking calculated for that district for the current fiscal year. However, in the case of a tangible personal property phase-out impacted district, the district's priority for assistance under sections 3318.01 to 3318.20 of the Revised Code and its portion of the basic project cost under those sections shall be determined in the manner prescribed, respectively, in divisions (B)(3)(b) and (E)(1)(b) of this section.

(B)(1) There is hereby established the school building 23188
assistance expedited local partnership program. Under the program, 23189
the Ohio school facilities commission may enter into an agreement 23190
with the school district board of any school district under which 23191
the school district board may proceed with the new construction or 23192
major repairs of a part of the school district's classroom 23193
facilities needs, as determined under sections 3318.01 to 3318.20 23194
of the Revised Code, through the expenditure of local resources 23195
prior to the school district's eligibility for state assistance 23196
under those sections and may apply that expenditure toward meeting 23197
the school district's portion of the basic project cost of the 23198
total of the school district's classroom facilities needs, as 23199
determined under sections 3318.01 to 3318.20 of the Revised Code 23200
and as recalculated under division (E) of this section, that are 23201
eligible for state assistance under sections 3318.01 to 3318.20 of 23202
the Revised Code when the school district becomes eligible for 23203
that assistance. Any school district that is reasonably expected 23204
to receive assistance under sections 3318.01 to 3318.20 of the 23205
Revised Code within two fiscal years from the date the school 23206
district adopts its resolution under division (B) of this section 23207
shall not be eligible to participate in the program established 23208
under this section. 23209

(2) To participate in the program, a school district board 23210
shall first adopt a resolution certifying to the commission the 23211
board's intent to participate in the program. 23212

The resolution shall specify the approximate date that the 23213
board intends to seek elector approval of any bond or tax measures 23214
or to apply other local resources to use to pay the cost of 23215
classroom facilities to be constructed under this section. The 23216
resolution may specify the application of local resources or 23217
elector-approved bond or tax measures after the resolution is 23218
adopted by the board, and in such case the board may proceed with 23219

a discrete portion of its project under this section as soon as 23220
the commission and the controlling board have approved the basic 23221
project cost of the district's classroom facilities needs as 23222
specified in division (D) of this section. The board shall submit 23223
its resolution to the commission not later than ten days after the 23224
date the resolution is adopted by the board. 23225

The commission shall not consider any resolution that is 23226
submitted pursuant to division (B)(2) of this section, as amended 23227
by this amendment, sooner than September 14, 2000. 23228

(3) For purposes of determining when a district that enters 23229
into an agreement under this section becomes eligible for 23230
assistance under sections 3318.01 to 3318.20 of the Revised Code, 23231
the commission shall use one of the following as applicable: 23232

(a) Except for a tangible personal property phase-out 23233
impacted district, the district's percentile ranking determined at 23234
the time the district entered into the agreement under this 23235
section, as prescribed by division (A)(2) of this section; 23236

(b) For a tangible personal property phase-out impacted 23237
district, the lesser of (i) the district's percentile ranking 23238
determined at the time the district entered into the agreement 23239
under this section, as prescribed by division (A)(2) of this 23240
section, or (ii) the district's current percentile ranking under 23241
section 3318.011 of the Revised Code. 23242

(4) Any project under this section shall comply with section 23243
3318.03 of the Revised Code and with any specifications for plans 23244
and materials for classroom facilities adopted by the commission 23245
under section 3318.04 of the Revised Code. 23246

(5) If a school district that enters into an agreement under 23247
this section has not begun a project applying local resources as 23248
provided for under that agreement at the time the district is 23249
notified by the commission that it is eligible to receive state 23250

assistance under sections 3318.01 to 3318.20 of the Revised Code, 23251
all assessment and agreement documents entered into under this 23252
section are void. 23253

(6) Only construction of or repairs to classroom facilities 23254
that have been approved by the commission and have been therefore 23255
included as part of a district's basic project cost qualify for 23256
application of local resources under this section. 23257

(C) Based on the results of on-site visits and assessment, 23258
the commission shall determine the basic project cost of the 23259
school district's classroom facilities needs. The commission shall 23260
determine the school district's portion of such basic project 23261
cost, which shall be the greater of: 23262

(1) The required percentage of the basic project costs, 23263
determined based on the school district's percentile ranking; 23264

(2) An amount necessary to raise the school district's net 23265
bonded indebtedness, as of the fiscal year the commission and the 23266
school district enter into the agreement under division (B) of 23267
this section, to within five thousand dollars of the required 23268
level of indebtedness. 23269

(D)(1) When the commission determines the basic project cost 23270
of the classroom facilities needs of a school district and the 23271
school district's portion of that basic project cost under 23272
division (C) of this section, the project shall be conditionally 23273
approved. Such conditional approval shall be submitted to the 23274
controlling board for approval thereof. The controlling board 23275
shall forthwith approve or reject the commission's determination, 23276
conditional approval, and the amount of the state's portion of the 23277
basic project cost; however, no state funds shall be encumbered 23278
under this section. Upon approval by the controlling board, the 23279
school district board may identify a discrete part of its 23280
classroom facilities needs, which shall include only new 23281

construction of or additions or major repairs to a particular 23282
building, to address with local resources. Upon identifying a part 23283
of the school district's basic project cost to address with local 23284
resources, the school district board may allocate any available 23285
school district moneys to pay the cost of that identified part, 23286
including the proceeds of an issuance of bonds if approved by the 23287
electors of the school district. 23288

All local resources utilized under this division shall first 23289
be deposited in the project construction account required under 23290
section 3318.08 of the Revised Code. 23291

(2) Unless the school district board exercises its option 23292
under division (D)(3) of this section, for a school district to 23293
qualify for participation in the program authorized under this 23294
section, one of the following conditions shall be satisfied: 23295

(a) The electors of the school district by a majority vote 23296
shall approve the levy of taxes outside the ten-mill limitation 23297
for a period of twenty-three years at the rate of not less than 23298
one-half mill for each dollar of valuation to be used to pay the 23299
cost of maintaining the classroom facilities included in the basic 23300
project cost as determined by the commission. The form of the 23301
ballot to be used to submit the question whether to approve the 23302
tax required under this division to the electors of the school 23303
district shall be the form for an additional levy of taxes 23304
prescribed in section 3318.361 of the Revised Code, which may be 23305
combined in a single ballot question with the questions prescribed 23306
under section 5705.218 of the Revised Code. 23307

(b) As authorized under division (C) of section 3318.05 of 23308
the Revised Code, the school district board shall earmark from the 23309
proceeds of a permanent improvement tax levied under section 23310
5705.21 of the Revised Code, an amount equivalent to the 23311
additional tax otherwise required under division (D)(2)(a) of this 23312
section for the maintenance of the classroom facilities included 23313

in the basic project cost as determined by the commission. 23314

(c) As authorized under section 3318.051 of the Revised Code, 23315
the school district board shall, if approved by the commission, 23316
annually transfer into the maintenance fund required under section 23317
3318.05 of the Revised Code the amount prescribed in section 23318
3318.051 of the Revised Code in lieu of the tax otherwise required 23319
under division (D)(2)(a) of this section for the maintenance of 23320
the classroom facilities included in the basic project cost as 23321
determined by the commission. 23322

(d) If the school district board has rescinded the agreement 23323
to make transfers under section 3318.051 of the Revised Code, as 23324
provided under division (F) of that section, the electors of the 23325
school district, in accordance with section 3318.063 of the 23326
Revised Code, first shall approve the levy of taxes outside the 23327
ten-mill limitation for the period specified in that section at a 23328
rate of not less than one-half mill for each dollar of valuation. 23329

(e) The school district board shall apply the proceeds of a 23330
tax to leverage bonds as authorized under section 3318.052 of the 23331
Revised Code or dedicate a local donated contribution in the 23332
manner described in division (B) of section 3318.084 of the 23333
Revised Code in an amount equivalent to the additional tax 23334
otherwise required under division (D)(2)(a) of this section for 23335
the maintenance of the classroom facilities included in the basic 23336
project cost as determined by the commission. 23337

(3) A school district board may opt to delay taking any of 23338
the actions described in division (D)(2) of this section until the 23339
school district becomes eligible for state assistance under 23340
sections 3318.01 to 3318.20 of the Revised Code. In order to 23341
exercise this option, the board shall certify to the commission a 23342
resolution indicating the board's intent to do so prior to 23343
entering into an agreement under division (B) of this section. 23344

(4) If pursuant to division (D)(3) of this section a district board opts to delay levying an additional tax until the district becomes eligible for state assistance, it shall submit the question of levying that tax to the district electors as follows:

(a) In accordance with section 3318.06 of the Revised Code if it will also be necessary pursuant to division (E) of this section to submit a proposal for approval of a bond issue;

(b) In accordance with section 3318.361 of the Revised Code if it is not necessary to also submit a proposal for approval of a bond issue pursuant to division (E) of this section.

(5) No state assistance under sections 3318.01 to 3318.20 of the Revised Code shall be released until a school district board that adopts and certifies a resolution under division (D) of this section also demonstrates to the satisfaction of the commission compliance with the provisions of division (D)(2) of this section.

Any amount required for maintenance under division (D)(2) of this section shall be deposited into a separate fund as specified in division (B) of section 3318.05 of the Revised Code.

(E)(1) If the school district becomes eligible for state assistance under sections 3318.01 to 3318.20 of the Revised Code based on its percentile ranking under division (B)(3) of this section, the commission shall conduct a new assessment of the school district's classroom facilities needs and shall recalculate the basic project cost based on this new assessment. The basic project cost recalculated under this division shall include the amount of expenditures made by the school district board under division (D)(1) of this section. The commission shall then recalculate the school district's portion of the new basic project cost, which shall be one of the following as applicable:

(a) Except for a tangible personal property phase-out impacted district, the percentage of the original basic project

cost assigned to the school district as its portion under division 23376
(C) of this section; 23377

(b) For a tangible personal property phase-out impacted 23378
district, the lesser of (i) the percentage of the original basic 23379
project cost assigned to the school district as its portion under 23380
division (C) of this section, or (ii) the percentage of the new 23381
basic project cost determined under section 3318.032 of the 23382
Revised Code using the district's current percentile ranking under 23383
section 3318.011 of the Revised Code. The 23384

The commission shall deduct the expenditure of school 23385
district moneys made under division (D)(1) of this section from 23386
the school district's portion of the basic project cost as 23387
recalculated under this division. If the amount of school district 23388
resources applied by the school district board to the school 23389
district's portion of the basic project cost under this section is 23390
less than the total amount of such portion as recalculated under 23391
this division, the school district board by a majority vote of all 23392
of its members shall, if it desires to seek state assistance under 23393
sections 3318.01 to 3318.20 of the Revised Code, adopt a 23394
resolution as specified in section 3318.06 of the Revised Code to 23395
submit to the electors of the school district the question of 23396
approval of a bond issue in order to pay any additional amount of 23397
school district portion required for state assistance. Any tax 23398
levy approved under division (D) of this section satisfies the 23399
requirements to levy the additional tax under section 3318.06 of 23400
the Revised Code. 23401

(2) If the amount of school district resources applied by the 23402
school district board to the school district's portion of the 23403
basic project cost under this section is more than the total 23404
amount of such portion as recalculated under ~~this~~ division (E)(1) 23405
of this section, within one year after the school district's 23406
portion is so recalculated ~~under division (E)(1) of this section~~ 23407

the commission may grant to the school district the difference 23408
between the two calculated portions, but at no time shall the 23409
commission expend any state funds on a project in an amount 23410
greater than the state's portion of the basic project cost as 23411
recalculated under ~~this~~ division (E)(1) of this section. 23412

Any reimbursement under this division shall be only for local 23413
resources the school district has applied toward construction cost 23414
expenditures for the classroom facilities approved by the 23415
commission, which shall not include any financing costs associated 23416
with that construction. 23417

The school district board shall use any moneys reimbursed to 23418
the district under this division to pay off any debt service the 23419
district owes for classroom facilities constructed under its 23420
project under this section before such moneys are applied to any 23421
other purpose. However, the district board first may deposit 23422
moneys reimbursed under this division into the district's general 23423
fund or a permanent improvement fund to replace local resources 23424
the district withdrew from those funds, as long as, and to the 23425
extent that, those local resources were used by the district for 23426
constructing classroom facilities included in the district's basic 23427
project cost. 23428

(3) A tangible personal property phase-out impacted district 23429
shall receive credit under division (E) of this section for the 23430
expenditure of local resources pursuant to any prior agreement 23431
authorized by this section, notwithstanding any recalculation of 23432
its average taxable value. 23433

Sec. 3318.37. (A)(1) As used in this section: 23434

(a) "Full maintenance amount" has the same meaning as in 23435
section 3318.034 of the Revised Code. 23436

(b) "Large land area school district" means a school district 23437

with a territory of greater than three hundred square miles in any 23438
percentile as determined under section 3318.011 of the Revised 23439
Code. 23440

~~(b)~~(c) "Low wealth school district" means a school district 23441
in the first through seventy-fifth percentiles as determined under 23442
section 3318.011 of the Revised Code. 23443

~~(e)~~(d) A "school district with an exceptional need for 23444
immediate classroom facilities assistance" means a low wealth or 23445
large land area school district with an exceptional need for new 23446
facilities in order to protect the health and safety of all or a 23447
portion of its students. 23448

(2) No school district that participates in the school 23449
building assistance expedited local partnership program under 23450
section 3318.36 of the Revised Code shall receive assistance under 23451
the program established under this section unless the following 23452
conditions are satisfied: 23453

(a) The district board adopted a resolution certifying its 23454
intent to participate in the school building assistance expedited 23455
local partnership program under section 3318.36 of the Revised 23456
Code prior to September 14, 2000. 23457

(b) The district was selected by the Ohio school facilities 23458
commission for participation in the school building assistance 23459
expedited local partnership program under section 3318.36 of the 23460
Revised Code in the manner prescribed by the commission under that 23461
section as it existed prior to September 14, 2000. 23462

(B)(1) There is hereby established the exceptional needs 23463
school facilities assistance program. Under the program, the Ohio 23464
school facilities commission may set aside from the moneys 23465
annually appropriated to it for classroom facilities assistance 23466
projects up to twenty-five per cent for assistance to school 23467
districts with exceptional needs for immediate classroom 23468

facilities assistance. 23469

(2)(a) After consulting with education and construction 23470
experts, the commission shall adopt guidelines for identifying 23471
school districts with an exceptional need for immediate classroom 23472
facilities assistance. 23473

(b) The guidelines shall include application forms and 23474
instructions for school districts to use in applying for 23475
assistance under this section. 23476

(3) The commission shall evaluate the classroom facilities, 23477
and the need for replacement classroom facilities from the 23478
applications received under this section. The commission, 23479
utilizing the guidelines adopted under division (B)(2)(a) of this 23480
section, shall prioritize the school districts to be assessed. 23481

Notwithstanding section 3318.02 of the Revised Code, the 23482
commission may conduct on-site evaluation of the school districts 23483
prioritized under this section and approve and award funds until 23484
such time as all funds set aside under division (B)(1) of this 23485
section have been encumbered. However, the commission need not 23486
conduct the evaluation of facilities if the commission determines 23487
that a district's assessment conducted under section 3318.36 of 23488
the Revised Code is sufficient for purposes of this section. 23489

(4) Notwithstanding division (A) of section 3318.05 of the 23490
Revised Code, the school district's portion of the basic project 23491
cost under this section shall be the "required percentage of the 23492
basic project costs," as defined in division (K) of section 23493
3318.01 of the Revised Code. 23494

(5) Except as otherwise specified in this section, any 23495
project undertaken with assistance under this section shall comply 23496
with all provisions of sections 3318.01 to 3318.20 of the Revised 23497
Code. A school district may receive assistance under sections 23498
3318.01 to 3318.20 of the Revised Code for the remainder of the 23499

district's classroom facilities needs as assessed under this 23500
section when the district is eligible for such assistance pursuant 23501
to section 3318.02 of the Revised Code, but any classroom facility 23502
constructed with assistance under this section shall not be 23503
included in a district's project at that time unless the 23504
commission determines the district has experienced the increased 23505
enrollment specified in division (B)(1) of section 3318.04 of the 23506
Revised Code. 23507

(C) No school district shall receive assistance under this 23508
section for a classroom facility that has been included in the 23509
discrete part of the district's classroom facilities needs 23510
identified and addressed in the district's project pursuant to an 23511
agreement entered into under section 3318.36 of the Revised Code, 23512
unless the district's entire classroom facilities plan consists of 23513
only a single building designed to house grades kindergarten 23514
through twelve. 23515

(D)(1) When undertaking a project under this section, a 23516
school district may elect to prorate its full maintenance amount 23517
by setting aside for maintenance the amount calculated under 23518
division (D)(2) of this section to maintain the classroom 23519
facilities acquired under the project, if the district will use 23520
one or more of the alternative methods authorized in sections 23521
3318.051, 3318.052, and 3318.084 of the Revised Code to generate 23522
the entire amount calculated under that division. If the district 23523
so elects, the commission and the district shall include in the 23524
agreement entered into under section 3318.08 of the Revised Code a 23525
statement specifying that the district will use the amount 23526
calculated under that division only to maintain the classroom 23527
facilities acquired under the project under this section. 23528

(2) The commission shall calculate the amount for a school 23529
district to maintain the classroom facilities acquired under a 23530
project under this section as follows: 23531

The full maintenance amount X (the school district's portion of the basic project cost under this section / the school district's portion of the basic project cost for the district's entire classroom facilities needs, as determined jointly by the staff of the commission and the district) 23532
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(3) A school district may elect to prorate its full maintenance amount for any number of projects under this section, provided the district will use one or more of the alternative methods authorized in sections 3318.051, 3318.052, and 3318.084 of the Revised Code to generate the entire amount calculated under division (D)(2) of this section to maintain the classroom facilities acquired under each project for which it so elects. If the district cannot use one or more of those alternative methods to generate the entire amount calculated under that division, the district shall levy the tax described in division (B) of section 3318.05 of the Revised Code or an extension of that tax under section 3318.061 of the Revised Code in an amount necessary to generate the remainder of its full maintenance amount. The commission shall calculate the remainder of the district's full maintenance amount as follows: 23537
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The full maintenance amount - the sum of the amounts calculated for the district under division (D)(2) of this section for each of the district's prior projects under this section 23552
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(4) In no case shall the sum of the amounts calculated for a school district's maintenance of classroom facilities under divisions (D)(2) and (3) of this section exceed the amount that would have been required for maintenance if the district had elected to meet its entire classroom facilities needs with a project under sections 3318.01 to 3318.20 of the Revised Code and had not undertaken one or more projects under this section. 23555
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(5) If a school district commenced a project under this section prior to the effective date of this amendment but has not 23562
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completed that project, and has not levied the tax described in 23564
division (B) of section 3318.05 of the Revised Code or an 23565
extension of that tax under section 3318.061 of the Revised Code, 23566
the district may request approval from the commission to prorate 23567
its full maintenance amount in accordance with divisions (D)(1) to 23568
(4) of this section. If the commission approves the request, the 23569
commission and the district shall amend the agreement entered into 23570
under section 3318.08 of the Revised Code to reflect the change. 23571

Sec. 3333.04. The chancellor of the Ohio board of regents 23572
shall: 23573

(A) Make studies of state policy in the field of higher 23574
education and formulate a master plan for higher education for the 23575
state, considering the needs of the people, the needs of the 23576
state, and the role of individual public and private institutions 23577
within the state in fulfilling these needs; 23578

(B)(1) Report annually to the governor and the general 23579
assembly on the findings from the chancellor's studies and the 23580
master plan for higher education for the state; 23581

(2) Report at least semiannually to the general assembly and 23582
the governor the enrollment numbers at each state-assisted 23583
institution of higher education. 23584

(C) Approve or disapprove the establishment of new branches 23585
or academic centers of state colleges and universities; 23586

(D) Approve or disapprove the establishment of state 23587
technical colleges or any other state institution of higher 23588
education; 23589

(E) Recommend the nature of the programs, undergraduate, 23590
graduate, professional, state-financed research, and public 23591
services which should be offered by the state colleges, 23592
universities, and other state-assisted institutions of higher 23593

education in order to utilize to the best advantage their 23594
facilities and personnel; 23595

(F) Recommend to the state colleges, universities, and other 23596
state-assisted institutions of higher education graduate or 23597
professional programs, including, but not limited to, doctor of 23598
philosophy, doctor of education, and juris doctor programs, that 23599
could be eliminated because they constitute unnecessary 23600
duplication, as shall be determined using the process developed 23601
pursuant to this division, or for other good and sufficient cause. 23602
Prior to recommending a program for elimination, the chancellor 23603
shall request the board of regents to hold at least one public 23604
hearing on the matter and advise the chancellor on whether the 23605
program should be recommended for elimination. The board shall 23606
provide notice of each hearing within a reasonable amount of time 23607
prior to its scheduled date. Following the hearing, the board 23608
shall issue a recommendation to the chancellor. The chancellor 23609
shall consider the board's recommendation but shall not be 23610
required to accept it. 23611

For purposes of determining the amounts of any state 23612
instructional subsidies paid to state colleges, universities, and 23613
other state-assisted institutions of higher education, the 23614
chancellor may exclude students enrolled in any program that the 23615
chancellor has recommended for elimination pursuant to this 23616
division except that the chancellor shall not exclude any such 23617
student who enrolled in the program prior to the date on which the 23618
chancellor initially commences to exclude students under this 23619
division. 23620

The chancellor and state colleges, universities, and other 23621
state-assisted institutions of higher education shall jointly 23622
develop a process for determining which existing graduate or 23623
professional programs constitute unnecessary duplication. 23624

(G) Recommend to the state colleges, universities, and other 23625

state-assisted institutions of higher education programs which 23626
should be added to their present programs; 23627

(H) Conduct studies for the state colleges, universities, and 23628
other state-assisted institutions of higher education to assist 23629
them in making the best and most efficient use of their existing 23630
facilities and personnel; 23631

(I) Make recommendations to the governor and general assembly 23632
concerning the development of state-financed capital plans for 23633
higher education; the establishment of new state colleges, 23634
universities, and other state-assisted institutions of higher 23635
education; and the establishment of new programs at the existing 23636
state colleges, universities, and other institutions of higher 23637
education; 23638

(J) Review the appropriation requests of the public community 23639
colleges and the state colleges and universities and submit to the 23640
office of budget and management and to the chairpersons of the 23641
finance committees of the house of representatives and of the 23642
senate the chancellor's recommendations in regard to the biennial 23643
higher education appropriation for the state, including 23644
appropriations for the individual state colleges and universities 23645
and public community colleges. For the purpose of determining the 23646
amounts of instructional subsidies to be paid to state-assisted 23647
colleges and universities, the chancellor shall define "full-time 23648
equivalent student" by program per academic year. The definition 23649
may take into account the establishment of minimum enrollment 23650
levels in technical education programs below which support 23651
allowances will not be paid. Except as otherwise provided in this 23652
section, the chancellor shall make no change in the definition of 23653
"full-time equivalent student" in effect on November 15, 1981, 23654
which would increase or decrease the number of subsidy-eligible 23655
full-time equivalent students, without first submitting a fiscal 23656
impact statement to the president of the senate, the speaker of 23657

the house of representatives, the legislative service commission, 23658
and the director of budget and management. The chancellor shall 23659
work in close cooperation with the director of budget and 23660
management in this respect and in all other matters concerning the 23661
expenditures of appropriated funds by state colleges, 23662
universities, and other institutions of higher education. 23663

(K) Seek the cooperation and advice of the officers and 23664
trustees of both public and private colleges, universities, and 23665
other institutions of higher education in the state in performing 23666
the chancellor's duties and making the chancellor's plans, 23667
studies, and recommendations; 23668

(L) Appoint advisory committees consisting of persons 23669
associated with public or private secondary schools, members of 23670
the state board of education, or personnel of the state department 23671
of education; 23672

(M) Appoint advisory committees consisting of college and 23673
university personnel, or other persons knowledgeable in the field 23674
of higher education, or both, in order to obtain their advice and 23675
assistance in defining and suggesting solutions for the problems 23676
and needs of higher education in this state; 23677

(N) Approve or disapprove all new degrees and new degree 23678
programs at all state colleges, universities, and other 23679
state-assisted institutions of higher education; 23680

(O) Adopt such rules as are necessary to carry out the 23681
chancellor's duties and responsibilities. The rules shall 23682
prescribe procedures for the chancellor to follow when taking 23683
actions associated with the chancellor's duties and 23684
responsibilities and shall indicate which types of actions are 23685
subject to those procedures. The procedures adopted under this 23686
division shall be in addition to any other procedures prescribed 23687
by law for such actions. However, if any other provision of the 23688

Revised Code or rule adopted by the chancellor prescribes	23689
different procedures for such an action, the procedures adopted	23690
under this division shall not apply to that action to the extent	23691
they conflict with the procedures otherwise prescribed by law. The	23692
procedures adopted under this division shall include at least the	23693
following:	23694
(1) Provision for public notice of the proposed action;	23695
(2) An opportunity for public comment on the proposed action,	23696
which may include a public hearing on the action by the board of	23697
regents;	23698
(3) Methods for parties that may be affected by the proposed	23699
action to submit comments during the public comment period;	23700
(4) Submission of recommendations from the board of regents	23701
regarding the proposed action, at the request of the chancellor;	23702
(5) Written publication of the final action taken by the	23703
chancellor and the chancellor's rationale for the action;	23704
(6) A timeline for the process described in divisions (0)(1)	23705
to (5) of this section.	23706
(P) Establish and submit to the governor and the general	23707
assembly a clear and measurable set of goals and timetables for	23708
their achievement for each program under the chancellor's	23709
supervision that is designed to accomplish any of the following:	23710
(1) Increased access to higher education;	23711
(2) Job training;	23712
(3) Adult literacy;	23713
(4) Research;	23714
(5) Excellence in higher education;	23715
(6) Reduction in the number of graduate programs within the	23716
same subject area.	23717

~~In July of each odd numbered year, the chancellor shall~~ 23718
~~submit to the governor and the general assembly a report on~~ 23719
~~progress made toward these goals.~~ 23720

~~(Q)~~ Make recommendations to the governor and the general 23721
assembly regarding the design and funding of the student financial 23722
aid programs specified in sections 3333.12, 3333.122, 3333.21 to 23723
3333.26, and 5910.02 of the Revised Code; 23724

~~(R)~~(O) Participate in education-related state or federal 23725
programs on behalf of the state and assume responsibility for the 23726
administration of such programs in accordance with applicable 23727
state or federal law; 23728

~~(S)~~(R) Adopt rules for student financial aid programs as 23729
required by sections 3333.12, 3333.122, 3333.21 to 3333.26, 23730
3333.28, and 5910.02 of the Revised Code, and perform any other 23731
administrative functions assigned to the chancellor by those 23732
sections; 23733

~~(T)~~(S) Conduct enrollment audits of state-supported 23734
institutions of higher education; 23735

~~(U)~~(T) Appoint consortia of college and university personnel 23736
to advise or participate in the development and operation of 23737
statewide collaborative efforts, including the Ohio supercomputer 23738
center, the Ohio academic resources network, OhioLink, and the 23739
Ohio learning network. For each consortium, the chancellor shall 23740
designate a college or university to serve as that consortium's 23741
fiscal agent, financial officer, and employer. Any funds 23742
appropriated for the consortia shall be distributed to the fiscal 23743
agents for the operation of the consortia. A consortium shall 23744
follow the rules of the college or university that serves as its 23745
fiscal agent. The chancellor may restructure existing consortia, 23746
appointed under this division, in accordance with procedures 23747
adopted under divisions ~~(D)~~(O)(1) to (6) of this section. 23748

~~(V)~~(U) Adopt rules establishing advisory duties and 23749
responsibilities of the board of regents not otherwise prescribed 23750
by law; 23751

~~(W)~~(V) Respond to requests for information about higher 23752
education from members of the general assembly and direct staff to 23753
conduct research or analysis as needed for this purpose. 23754

Sec. 3333.041. (A) On or before the last day of December of 23755
each year, the chancellor of the Ohio board of regents shall 23756
submit ~~a report~~ to the governor and, in accordance with section 23757
101.68 of the Revised Code, the general assembly, the state board 23758
of education, and the board of education of each city, exempted 23759
village, and local school district on the a report or reports 23760
concerning all of the following: 23761

(1) The status of graduates of Ohio school districts at 23762
~~state assisted colleges or universities~~ state institutions of 23763
higher education during the twelve-month period ending on the 23764
thirtieth day of September of the current calendar year. The 23765
report shall list, by school district, the number of graduates of 23766
each school district who attended ~~such a college or university~~ 23767
state institution of higher education and the percentage of each 23768
district's graduates enrolled in ~~such a college or university~~ 23769
state institution of higher education during the reporting period 23770
who were required during such period by the college or university, 23771
as a prerequisite to enrolling in those courses generally required 23772
for first-year students, to enroll in a remedial course in 23773
English, including composition or reading, mathematics, and any 23774
other area designated by the ~~board~~ chancellor. The chancellor also 23775
shall make the information described in division (A)(1) of this 23776
section available to the board of education of each city, exempted 23777
village, and local school district. 23778

Each ~~state assisted college and university~~ state institution 23779

of higher education shall, by the first day of November of each 23780
year, submit to the chancellor in the form specified by the 23781
chancellor the information the chancellor requires to compile the 23782
report. 23783

(2) Aggregate academic growth data for students assigned to 23784
graduates of teacher preparation programs approved under section 23785
3333.048 of the Revised Code who teach English language arts or 23786
mathematics in any of grades four to eight in a public school in 23787
Ohio. For this purpose, the chancellor shall use the value-added 23788
progress dimension prescribed by section 3302.021 of the Revised 23789
Code. The chancellor shall aggregate the data by graduating class 23790
for each approved teacher preparation program, except that if a 23791
particular class has ten or fewer graduates to which this section 23792
applies, the chancellor shall report the data for a group of 23793
classes over a three-year period. In no case shall the report 23794
identify any individual graduate. The department of education 23795
shall share any data necessary for the report with the chancellor. 23796

(3) The following information with respect to the Ohio 23797
tuition trust authority: 23798

(a) The name of each investment manager that is a minority 23799
business enterprise or a women's business enterprise with which 23800
the chancellor contracts; 23801

(b) The amount of assets managed by investment managers that 23802
are minority business enterprises or women's business enterprises, 23803
expressed as a percentage of assets managed by investment managers 23804
with which the chancellor has contracted; 23805

(c) Efforts by the chancellor to increase utilization of 23806
investment managers that are minority business enterprises or 23807
women's business enterprises. 23808

(4) The status of implementation of faculty improvement 23809
programs under section 3345.28 of the Revised Code. The report 23810

shall include, but need not be limited to, the following: the 23811
number of professional leave grants made by each institution; the 23812
purpose of each professional leave; and a statement of the cost to 23813
the institution of each professional leave, to the extent that the 23814
cost exceeds the salary of the faculty member on professional 23815
leave. 23816

(5) The number and types of biobased products purchased under 23817
section 125.092 of the Revised Code and the amount of money spent 23818
by state institutions of higher education for those biobased 23819
products as that information is provided to the chancellor under 23820
division (A) of section 3345.692 of the Revised Code. 23821

(6) A description of dual enrollment programs, as defined in 23822
section 3313.6013 of the Revised Code, that are offered by school 23823
districts, community schools established under Chapter 3314. of 23824
the Revised Code, STEM schools established under Chapter 3326. of 23825
the Revised Code, college-preparatory boarding schools established 23826
under Chapter 3328. of the Revised Code, and chartered nonpublic 23827
high schools. The chancellor also shall post the information on 23828
the chancellor's web site. 23829

(7) The academic and economic impact of the Ohio innovation 23830
partnership established under section 3333.61 of the Revised Code. 23831
At a minimum, the report shall include the following: 23832

(a) Progress and performance metrics for each initiative that 23833
received an award in the previous fiscal year; 23834

(b) Economic indicators of the impact of each initiative, and 23835
all initiatives as a whole, on the regional economies and the 23836
statewide economy; 23837

(c) The chancellor's strategy in assigning choose Ohio first 23838
scholarships among state universities and colleges and how the 23839
actual awards fit that strategy. 23840

(8) The academic and economic impact of the Ohio 23841

co-op/internship program established under section 3333.72 of the 23842
Revised Code. At a minimum, the report shall include the 23843
following: 23844

(a) Progress and performance metrics for each initiative that 23845
received an award in the previous fiscal year; 23846

(b) Economic indicators of the impact of each initiative, and 23847
all initiatives as a whole, on the regional economies and the 23848
statewide economy; 23849

(c) The chancellor's strategy in allocating awards among 23850
state institutions of higher education and how the actual awards 23851
fit that strategy. 23852

(B) As used in this section, "~~state-assisted college or~~ 23853
university" means a state university or college as defined in 23854
division (A)(1) of section 3345.12 of the Revised Code, community 23855
colleges, state community colleges, university branches, and 23856
technical colleges.: 23857

(1) "Minority business enterprise" has the same meaning as in 23858
section 122.71 of the Revised Code. 23859

(2) "State institution of higher education" and "state 23860
university" have the same meanings as in section 3345.011 of the 23861
Revised Code. 23862

(3) "State university or college" has the same meaning as in 23863
section 3345.12 of the Revised Code. 23864

(4) "Women's business enterprise" means a business, or a 23865
partnership, corporation, limited liability company, or joint 23866
venture of any kind, that is owned and controlled by women who are 23867
United States citizens and residents of this state. 23868

Sec. 3333.123. (A) As used in this section: 23869

(1) "The Ohio college opportunity grant program" means the 23870

program established under section 3333.122 of the Revised Code. 23871

(2) "Rules for the Ohio college opportunity grant program" 23872
means the rules authorized in division ~~(S)~~(R) of section 3333.04 23873
of the Revised Code for the implementation of the program. 23874

(B) In adopting rules for the Ohio college opportunity grant 23875
program, the chancellor of the Ohio board of regents may include 23876
provisions that give preferential or priority funding to 23877
low-income students who in their primary and secondary school work 23878
participate in or complete rigorous academic coursework, attain 23879
passing scores on the assessments prescribed in section 3301.0710 23880
of the Revised Code, or meet other high academic performance 23881
standards determined by the chancellor to reduce the need for 23882
remediation and ensure academic success at the postsecondary 23883
education level. Any such rules shall include a specification of 23884
procedures needed to certify student achievement of primary and 23885
secondary standards as well as the timeline for implementation of 23886
the provisions authorized by this section. 23887

Sec. 3333.21. As used in sections 3333.21 to 3333.23 of the 23888
Revised Code, "term" and "academic year" mean "term" and "academic 23889
year" as defined by the chancellor of the Ohio board of regents. 23890

The chancellor shall establish and administer an academic 23891
scholarship program. Under the program, a total of one thousand 23892
new scholarships shall be awarded annually in the amount of not 23893
less than two thousand dollars per award. At least one such new 23894
scholarship shall be awarded annually to a student in each public 23895
high school and joint vocational school and each nonpublic high 23896
school for which the state board of education prescribes minimum 23897
standards in accordance with section 3301.07 of the Revised Code. 23898

To be eligible for the award of a scholarship, a student 23899
shall be a resident of Ohio and shall be enrolled as a full-time 23900
undergraduate student in an Ohio institution of higher education 23901

that meets the requirements of Title VI of the "Civil Rights Act of 1964" and is state-assisted, is nonprofit and holds a certificate of authorization issued under section 1713.02 of the Revised Code, is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, or holds a certificate of registration and program authorization issued under section 3332.05 of the Revised Code and awards an associate or bachelor's degree. Students who attend an institution holding a certificate of registration shall be enrolled in a program leading to an associate or bachelor's degree for which associate or bachelor's degree program the institution has program authorization to offer the program issued under section 3332.05 of the Revised Code.

"Resident" and "full-time student" shall be defined in rules adopted by the chancellor.

The chancellor shall award the scholarships on the basis of a formula designed by the chancellor to identify students with the highest capability for successful college study. The formula shall weigh the factor of achievement, as measured by grade point average, and the factor of ability, as measured by performance on a competitive examination specified by the chancellor. Students receiving scholarships shall be known as "Ohio academic scholars." ~~Annually, not later than the thirty first day of July, the chancellor shall report to the governor and the general assembly on the performance of current Ohio academic scholars and the effectiveness of the formula.~~

Sec. 3333.60. As used in sections 3333.61 to ~~3333.70~~ 3333.69 of the Revised Code:

(A) "State university or college" has the same meaning as in section 3345.12 of the Revised Code.

(B) "State university" and "state institution of higher

education" have the same meanings as in section 3345.011 of the Revised Code.

Sec. 3333.61. The chancellor of the Ohio board of regents shall establish and administer the Ohio innovation partnership, which shall consist of the choose Ohio first scholarship program and the Ohio research scholars program. Under the programs, the chancellor, subject to approval by the controlling board, shall make awards to state universities or colleges for programs and initiatives that recruit students and scientists in the fields of science, technology, engineering, mathematics, and medicine to state universities or colleges, in order to enhance regional educational and economic strengths and meet the needs of the state's regional economies. Awards may be granted for programs and initiatives to be implemented by a state university or college alone or in collaboration with other state institutions of higher education, nonpublic Ohio universities and colleges, or other public or private Ohio entities. If the chancellor makes an award to a program or initiative that is intended to be implemented by a state university or college in collaboration with other state institutions of higher education or nonpublic Ohio universities or colleges, the chancellor may provide that some portion of the award be received directly by the collaborating universities or colleges consistent with all terms of the Ohio innovation partnership.

The choose Ohio first scholarship program shall assign a number of scholarships to state universities and colleges to recruit Ohio residents as undergraduate, or as provided in section 3333.66 of the Revised Code graduate, students in the fields of science, technology, engineering, mathematics, and medicine, or in science, technology, engineering, mathematics, or medical education. Choose Ohio first scholarships shall be awarded to each participating eligible student as a grant to the state university

or college the student is attending and shall be reflected on the 23965
student's tuition bill. Choose Ohio first scholarships are 23966
student-centered grants from the state to students to use to 23967
attend a university or college and are not grants from the state 23968
to universities or colleges. 23969

Notwithstanding any other provision of this section or 23970
sections 3333.62 to ~~3333.70~~ 3333.69 of the Revised Code, a 23971
nonpublic four-year Ohio institution of higher education may 23972
submit a proposal for choose Ohio first scholarships or Ohio 23973
research scholars grants. If the chancellor awards a nonpublic 23974
institution scholarships or grants, the nonpublic institution 23975
shall comply with all requirements of this section, sections 23976
3333.62 to ~~3333.70~~ 3333.69 of the Revised Code, and the rules 23977
adopted under this section that apply to state universities or 23978
colleges awarded choose Ohio first scholarships or Ohio research 23979
scholars grants. 23980

The Ohio research scholars program shall award grants to use 23981
in recruiting scientists to the faculties of state universities or 23982
colleges. 23983

The chancellor shall adopt rules in accordance with Chapter 23984
119. of the Revised Code to administer the programs. 23985

Sec. 3333.71. As used in sections 3333.71 to ~~3333.80~~ 3333.79 23986
of the Revised Code: 23987

(A) "Cooperative education program" means a partnership 23988
between students, institutions of higher education, and employers 23989
that formally integrates students' academic study with work 23990
experience in cooperating employer organizations and that meets 23991
all of the following conditions: 23992

(1) Alternates or combines periods of academic study and work 23993
experience in appropriate fields as an integral part of student 23994

education;	23995
(2) Provides students with compensation from the cooperative employer in the form of wages or salaries for work performed;	23996 23997
(3) Evaluates each participating student's performance in the cooperative position, both from the perspective of the student's institution of higher education and the student's cooperative employer;	23998 23999 24000 24001
(4) Provides participating students with academic credit from the institution of higher education upon successful completion of their cooperative education;	24002 24003 24004
(5) Is part of an overall degree or certificate program for which a percentage of the total program acceptable to the chancellor of the Ohio board of regents involves cooperative education.	24005 24006 24007 24008
(B) "Internship program" means a partnership between students, institutions of higher education, and employers that formally integrates students' academic study with work or community service experience and that does both of the following:	24009 24010 24011 24012
(1) Offers internships of specified and definite duration;	24013
(2) Evaluates each participating student's performance in the internship position, both from the perspective of the student's institution of higher education and the student's internship employer.	24014 24015 24016 24017
An internship program may provide participating students with academic credit upon successful completion of the internship, and may provide students with compensation in the form of wages or salaries, stipends, or scholarships.	24018 24019 24020 24021
(C) "Nonpublic university or college" means a nonprofit institution holding a certificate of authorization issued under Chapter 1713. of the Revised Code.	24022 24023 24024

(D) "State institution of higher education" has the same 24025
meaning as in section 3345.011 of the Revised Code. 24026

Sec. 3333.72. The chancellor of the Ohio board of regents 24027
shall establish and administer the Ohio co-op/internship program 24028
to promote and encourage cooperative education programs or 24029
internship programs at Ohio institutions of higher education for 24030
the purpose of recruiting Ohio students to stay in the state, and 24031
recruiting Ohio residents who left Ohio to attend out-of-state 24032
institutions of higher education back to Ohio institutions of 24033
higher education, to participate in high quality academic programs 24034
that use cooperative education programs or significant internship 24035
programs, in order to support the growth of Ohio's businesses by 24036
providing businesses with Ohio's most talented students and 24037
providing Ohio graduates with job opportunities with Ohio's 24038
growing companies. 24039

The chancellor, subject to approval by the controlling board, 24040
shall make awards to state institutions of higher education for 24041
new or existing programs and initiatives meeting the goals of the 24042
Ohio co-op/internship program. Awards may be granted for programs 24043
and initiatives to be implemented by a state institution of higher 24044
education alone or in collaboration with other state institutions 24045
of higher education or nonpublic Ohio universities and colleges. 24046
If the chancellor makes an award to a program or initiative that 24047
is intended to be implemented by a state institution of higher 24048
education in collaboration with other state institutions of higher 24049
education or nonpublic Ohio universities or colleges, the 24050
chancellor may provide that some portion of the award be received 24051
directly by the collaborating universities or colleges consistent 24052
with all terms of the Ohio co-op/internship program. 24053

The Ohio co-op/internship program shall support the creation 24054
and maintenance of high quality academic programs that utilize an 24055

intensive cooperative education or internship program for students 24056
at state institutions of higher education, or assign a number of 24057
scholarships to institutions to recruit Ohio residents as students 24058
in a high quality academic program, or both. If scholarships are 24059
included in an award to an institution of higher education, the 24060
scholarships shall be awarded to each participating eligible 24061
student as a grant to the state institution of higher education 24062
the student is attending and shall be reflected on the student's 24063
tuition bill. 24064

Notwithstanding any other provision of this section or 24065
sections 3333.73 to ~~3333.80~~ 3333.79 of the Revised Code, an Ohio 24066
four-year nonpublic university or college may submit a proposal as 24067
lead applicant or co-lead applicant for an award under the Ohio 24068
co-op/internship program if the proposal is to be implemented in 24069
collaboration with a state institution of higher education. If the 24070
chancellor grants a nonpublic university or college an award, the 24071
nonpublic university or college shall comply with all requirements 24072
of this section, sections 3333.73 to ~~3333.80~~ 3333.79 of the 24073
Revised Code, and the rules adopted under this section that apply 24074
to state institutions of higher education that receive awards 24075
under the program. 24076

The chancellor shall adopt rules in accordance with Chapter 24077
119. of the Revised Code to administer the Ohio co-op/internship 24078
program. 24079

Sec. 3345.16. The board of trustees of a state college or 24080
university may receive, and hold in trust, for the use and benefit 24081
of the college or university any grant or devise of land, and 24082
donation or bequest of money or other personal property, to be 24083
applied to the general or special use of the college or 24084
university, including use for student loan and scholarship 24085
purposes, unless otherwise directed in the donation or bequest. 24086

The board of trustees of a state college or university may 24087
utilize trust funds to invest in property, real and personal, as a 24088
portion of the holdings in the endowment portfolio under the trust 24089
powers imparted to the board of trustees. Such property, real and 24090
personal, acquired for investment purposes shall be managed by the 24091
board of trustees in the same manner as are other investments in 24092
the college's or university's endowment portfolio. The board of 24093
trustees may lease, lease back, or otherwise contract for the use 24094
of such property in such manner as to provide earning power for 24095
the college or university investment portfolio. Sections 123.01, 24096
~~123.04~~ 123.02, ~~123.15~~ 123.10, and ~~123.47~~ 123.13 of the Revised 24097
Code do not apply to properties, real and personal, held under 24098
this section as earning-power properties in the college or 24099
university endowment portfolio. 24100

Notwithstanding any provision of the Revised Code to the 24101
contrary, the title in properties, real and personal, purchased by 24102
a board of trustees as an investment and held in the college's or 24103
university's endowment portfolio shall not be vested in the state, 24104
but shall be held in trust by the board. 24105

Sec. 3345.28. The board of trustees of any state university, 24106
medical university, technical college, state community college, 24107
community college, or the board of trustees or managing authority 24108
of any university branch may establish and administer a faculty 24109
improvement program, under which any full-time faculty member with 24110
at least seven academic years of teaching service at the college, 24111
university, or branch may be granted professional leave for a 24112
period not to exceed one academic year to engage in further 24113
education, research, or any other purpose approved by the board. A 24114
board of trustees or managing authority that establishes such a 24115
program shall, by rule, adopt a definition of "academic years of 24116
teaching service" and of "full-time faculty member." 24117

No such board or authority shall pay any faculty member for 24118
or during a period of professional leave any salary exceeding the 24119
amount that would have been paid to such faculty member for 24120
performing the faculty member's regular duties during the period 24121
of the leave. No faculty member shall, by virtue of being on 24122
professional leave, suffer a reduction or termination of the 24123
faculty member's regular employee retirement or insurance benefits 24124
or of any other benefit or privilege being received as a faculty 24125
member at the college, university, or branch where the faculty 24126
member is employed. Whenever such a benefit would be reduced 24127
because of a reduction in the faculty member's salary during the 24128
period of professional leave, the faculty member shall be given a 24129
chance to have the benefit increased to its normal level, in 24130
accordance with rules adopted by the board of trustees or the 24131
managing authority. A faculty member who has been granted 24132
professional leave shall complete another seven years of service 24133
at the college, university, or branch at which the faculty member 24134
is employed before becoming eligible for another grant of 24135
professional leave at that college, university, or branch. 24136
Professional leave taken as part of a faculty improvement program 24137
established under this section shall not be deemed to be in lieu 24138
of released time or assigned duty in connection with a specific 24139
research, scholarly, or creative program. 24140

Boards of trustees and managing authorities may accept moneys 24141
from any person, political subdivision, or the federal government 24142
to support a faculty improvement program, and may establish such 24143
additional rules as are necessary to establish and administer it. 24144

Each grant of professional leave shall be in accordance with 24145
a professional improvement policy for professional leaves that has 24146
been approved by the board of trustees or the managing authority. 24147
No professional leave shall be granted that requires a 24148
compensating addition to the permanent faculty or staff of the 24149

college, university, or branch. No professional leave shall be 24150
approved unless a specific plan for the professional improvement 24151
of the faculty member while on leave has been submitted to and 24152
accepted by the president of the university, college, or branch. 24153
At the completion of the leave, the faculty member shall submit to 24154
the president a report detailing the attainments of the faculty 24155
member under this professional improvement plan. 24156

~~Not later than the thirtieth day of June of each year, the 24157
chancellor of the board of regents shall report to the 24158
chairpersons of the education committees of the house of 24159
representatives and the senate on the status of implementation of 24160
faculty improvement programs. The report shall include, but need 24161
not be limited to, the following: the number of professional leave 24162
grants made by each institution; the purpose of each professional 24163
leave; and a statement of the cost to the institution of each 24164
professional leave, to the extent that such cost exceeds the 24165
salary of the faculty member on professional leave. 24166~~

Sec. 3345.50. Notwithstanding anything to the contrary in 24167
sections 123.01 and ~~123.15~~ 123.10 of the Revised Code, a state 24168
university, a state community college, or the northeast Ohio 24169
medical university not certified pursuant to section ~~123.17~~ 123.24 24170
of the Revised Code may administer any capital facilities project 24171
for the construction, reconstruction, improvement, renovation, 24172
enlargement, or alteration of a public improvement under its 24173
jurisdiction for which the total amount of funds expected to be 24174
appropriated by the general assembly does not exceed four million 24175
dollars without the supervision, control, or approval of the 24176
~~department of administrative services~~ Ohio facilities construction 24177
commission as specified in those sections, if both of the 24178
following occur: 24179

(A) Within sixty days after the effective date of the section 24180

of an act in which the general assembly initially makes an 24181
appropriation for the project, the board of trustees of the 24182
institution notifies the chancellor of the Ohio board of regents 24183
in writing of its intent to administer the capital facilities 24184
project; 24185

(B) The board of trustees complies with the guidelines 24186
established pursuant to section 153.16 of the Revised Code and all 24187
laws that govern the selection of consultants, preparation and 24188
approval of contract documents, receipt of bids, and award of 24189
contracts with respect to the project. 24190

The chancellor shall adopt rules in accordance with Chapter 24191
119. of the Revised Code that establish criteria for the 24192
administration by any such institution of higher education of a 24193
capital facilities project for which the total amount of funds 24194
expected to be appropriated by the general assembly exceeds four 24195
million dollars. The criteria, to be developed with the ~~department~~ 24196
~~of administrative services~~ Ohio facilities construction commission 24197
and higher education representatives selected by the chancellor, 24198
shall include such matters as the adequacy of the staffing levels 24199
and expertise needed for the institution to administer the 24200
project, past performance of the institution in administering such 24201
projects, and the amount of institutional or other nonstate money 24202
to be used in financing the project. The chancellor and the 24203
~~department of administrative services~~ Ohio facilities construction 24204
commission shall approve the request of any such institution of 24205
higher education that seeks to administer any such capital 24206
facilities project and meets the criteria set forth in the rules 24207
and in the requirements of division (B) of this section. 24208

Sec. 3345.51. (A) Notwithstanding anything to the contrary in 24209
sections ~~123.01~~ 123.20 and ~~123.15~~ 123.21 of the Revised Code, a 24210
state university, the northeast Ohio medical university, or a 24211

state community college may administer any capital facilities 24212
project for the construction, reconstruction, improvement, 24213
renovation, enlargement, or alteration of a public improvement 24214
under its jurisdiction for which funds are appropriated by the 24215
general assembly without the supervision, control, or approval of 24216
the ~~department of administrative services~~ Ohio facilities 24217
construction commission as specified in those sections, if all of 24218
the following occur: 24219

(1) The institution is certified by the ~~state architect~~ 24220
commission under section ~~123.17~~ 123.24 of the Revised Code; 24221

(2) Within sixty days after the effective date of the section 24222
of an act in which the general assembly initially makes an 24223
appropriation for the project, the board of trustees of the 24224
institution notifies the chancellor of the Ohio board of regents 24225
in writing of its request to administer the capital facilities 24226
project and the chancellor approves that request pursuant to 24227
division (B) of this section; 24228

(3) The board of trustees passes a resolution stating its 24229
intent to comply with section 153.13 of the Revised Code and the 24230
guidelines established pursuant to section 153.16 of the Revised 24231
Code and all laws that govern the selection of consultants, 24232
preparation and approval of contract documents, receipt of bids, 24233
and award of contracts with respect to the project. 24234

(B) The chancellor shall adopt rules in accordance with 24235
Chapter 119. of the Revised Code that establish criteria for the 24236
administration by any such institution of higher education of a 24237
capital facilities project for which the general assembly 24238
appropriates funds. The criteria, to be developed with the 24239
~~department of administrative services~~ commission and higher 24240
education representatives selected by the chancellor, shall 24241
include such matters as the adequacy of the staffing levels and 24242
expertise needed for the institution to administer the project, 24243

past performance of the institution in administering such 24244
projects, and the amount of institutional or other nonstate money 24245
to be used in financing the project. The chancellor shall approve 24246
the request of any such institution of higher education that seeks 24247
to administer any such capital facilities project and meets the 24248
criteria set forth in the rules and the requirements of division 24249
(A) of this section. 24250

(C) Any institution that administers a capital facilities 24251
project under this section shall conduct biennial audits for the 24252
duration of the project to ensure that the institution is 24253
complying with Chapters 9., 123., and 153. of the Revised Code and 24254
that the institution is using its certification issued under 24255
section ~~123.17~~ 123.24 of the Revised Code appropriately. The 24256
chancellor, in consultation with higher education representatives 24257
selected by the chancellor, shall adopt rules in accordance with 24258
Chapter 119. of the Revised Code that establish criteria for the 24259
conduct of the audits. The criteria shall include documentation 24260
necessary to determine compliance with Chapters 9., 123., and 153. 24261
of the Revised Code and a method to determine whether an 24262
institution is using its certification issued under section ~~123.17~~ 24263
123.24 of the Revised Code appropriately. 24264

(D) The chancellor, in consultation with higher education 24265
representatives selected by the chancellor, shall adopt rules in 24266
accordance with Chapter 119. of the Revised Code establishing 24267
criteria for monitoring capital facilities projects administered 24268
by institutions under this section. The criteria shall include the 24269
following: 24270

(1) Conditions under which the chancellor may revoke the 24271
authority of an institution to administer a capital facilities 24272
project under this section, including the failure of an 24273
institution to maintain a sufficient number of employees who have 24274
successfully completed the certification program under section 24275

123.17 <u>123.24</u> of the Revised Code;	24276
(2) A process for institutions to remedy any problems found by an audit conducted pursuant to division (C) of this section, including the improper use of state funds or violations of Chapter 9., 123., or 153. of the Revised Code.	24277 24278 24279 24280
(E) If the chancellor revokes an institution's authority to administer a capital facilities project, the department of administrative services <u>commission</u> shall administer the capital facilities project. The chancellor also may require an institution, for which the chancellor revoked authority to administer a capital facilities project, to acquire a new local administration competency certification pursuant to section 123.17 <u>123.24</u> of the Revised Code.	24281 24282 24283 24284 24285 24286 24287 24288
Sec. 3345.54. (A) As used in this section:	24289
(1) "Auxiliary facilities" has the same meaning as in section 3345.12 of the Revised Code.	24290 24291
(2) "Conduit entity" means an organization described in section 501(c)(3) of the Internal Revenue Code qualified as a public charity under section 509(a)(2) or 509(a)(3) of the Internal Revenue Code, <u>or any other appropriate legal entity selected by the state institution</u> , whose corporate purpose allows it to perform the functions and obligations of a conduit entity pursuant to the terms of a financing agreement.	24292 24293 24294 24295 24296 24297 24298
(3) "Conveyed property" means auxiliary facilities conveyed by a state institution to a conduit entity pursuant to a financing agreement.	24299 24300 24301
(4) "Financing agreement" means a contract described in division (C) of this section.	24302 24303
(5) "Independent funding source" means a private entity that enters into a financing agreement with a conduit entity and a	24304 24305

state institution. 24306

(6) "State institution" means a state institution of higher 24307
education as defined in section 3345.011 of the Revised Code. 24308

(B) The board of trustees of a state institution, with the 24309
approval of the chancellor of the Ohio board of regents and the 24310
controlling board, may enter into a financing agreement with a 24311
conduit entity and an independent funding source selected either 24312
through a competitive selection process or by direct negotiations, 24313
and may convey to the conduit entity title to any auxiliary 24314
facilities owned by the state institution pursuant to the terms of 24315
a financing agreement. 24316

(C) A financing agreement under this section is a written 24317
contract entered into among a state institution, a conduit entity, 24318
and an independent funding source that provides for: 24319

(1) The conveyance of auxiliary facilities owned by a state 24320
institution to the conduit entity for consideration deemed 24321
adequate by the state institution; 24322

(2) The lease of the conveyed property by the conduit entity 24323
to the independent funding source and leaseback of the conveyed 24324
property to the conduit entity for a term not to exceed 24325
ninety-nine years; 24326

(3) Such other terms and conditions that may be negotiated 24327
and agreed upon by the parties, including, but not limited to, 24328
terms regarding: 24329

(a) Payment to the state institution by the conduit entity of 24330
revenues received by it from the operations of the conveyed 24331
property in excess of the payments it is required to make to the 24332
independent funding source under the lease-leaseback arrangement 24333
described in division (C)(2) of this section; 24334

(b) Pledge, assignment, or creation of a lien in favor of the 24335

independent funding source by the conduit entity of any revenues 24336
derived from the conveyed property; 24337

(c) Reverter or conveyance of title to the conveyed property 24338
to the state institution when the conveyed property is no longer 24339
subject to a lease with the independent funding source. 24340

(4) Terms and conditions required by the chancellor or the 24341
controlling board as a condition of approval of the financing 24342
agreement. 24343

(D) The state institution and the conduit entity may enter 24344
into such other management agreements or other contracts regarding 24345
the conveyed property the parties deem appropriate, including 24346
agreements pursuant to which the state institution may maintain or 24347
administer the conveyed property and collect and disburse revenues 24348
from the conveyed property on behalf of the conduit entity. 24349

(E) The parties may modify or extend the term of the 24350
financing agreement with the approval of the chancellor and the 24351
controlling board. 24352

(F) The conveyed property shall retain its exemption from 24353
property taxes and assessments as though title to the conveyed 24354
property were held by the state institution during any part of a 24355
tax year that title is held by the state institution or the 24356
conduit entity and, if held by the conduit entity, remains subject 24357
to the lease-leaseback arrangement described in division (C)(2) of 24358
this section. However, as a condition of the continued exemption 24359
of the conveyed property during the term of the lease-leaseback 24360
arrangement the conduit entity shall apply for and maintain the 24361
exemption as provided by law. 24362

(G) Nothing in this section is intended to abrogate, amend, 24363
limit, or replace any existing authority state institutions may 24364
have with respect to the conveyance, lease, lease-leaseback, 24365
finance, or acquisition of auxiliary facilities including, but not 24366

limited to, authority granted under sections 3345.07, 3345.11, and 3345.12 of the Revised Code.

Sec. 3345.69. (A) As used in this section:

(1) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

(2) "Board of trustees of a state institution of higher education" has the same meaning as in section 3345.61 of the Revised Code.

(B) The chairperson of the interuniversity council of Ohio and the secretary of the Ohio association of community colleges shall assist in coordinating the organization and operation of a committee to carry out this section. The committee shall be comprised of the presidents of the state institutions of higher education or their designees. The committee, in consultation with the ~~office of energy services of the department of administrative services~~ Ohio facilities construction commission, shall develop guidelines for the board of trustees of each state institution of higher education to use in ensuring energy efficiency and conservation in on- and off-campus buildings. ~~Initial guidelines shall be adopted not later than ninety days after the effective date of this section.~~ At a minimum, guidelines under this section shall do all of the following:

(1) Include a goal to reduce on- and off-campus building energy consumption by at least twenty per cent by 2014, using calendar year 2004 as the benchmark year, while recognizing the diverse nature and different energy demands and uses of such buildings and measures already taken to increase building energy efficiency and conservation;

(2) Prescribe minimum energy efficiency and conservation standards for any new, on- or off-campus capital improvement

project with a construction cost of one hundred thousand dollars	24397
or more, which standards shall be based on general building type	24398
and cost-effectiveness;	24399
(3) Prescribe minimum energy efficiency and conservation	24400
standards for the leasing of an off-campus space of at least	24401
twenty-thousand square feet;	24402
(4) Incorporate best practices into energy efficiency and	24403
conservation standards and plans;	24404
(5) Provide that each board develop its own fifteen-year plan	24405
for phasing in energy efficiency and conservation projects;	24406
(6) Provide that project impact assessments include the	24407
fiscal effects of energy efficiency and conservation	24408
recommendations and plans;	24409
(7) Establish mechanisms for each board to report	24410
periodically to the committee on its progress relative to the	24411
guidelines.	24412
(C) The board of trustees of a state institution of higher	24413
education shall adopt rules under section 111.15 of the Revised	24414
Code to carry out the guidelines established pursuant to division	24415
(B) of this section, including in the execution of the board's	24416
authority under sections 3345.62 to 3345.66 of the Revised Code.	24417
Sec. 3345.692. (A) Not later than September 15, 2010, and the	24418
fifteenth day of September each year thereafter, a state	24419
institution of higher education shall prepare and submit to the	24420
chancellor of the board of regents a report that describes the	24421
number and types of biobased products purchased under section	24422
125.092 of the Revised Code and the amount of money spent by the	24423
state institution of higher education for those biobased products.	24424
(B) Not later than September 30, 2010, and the thirtieth day	24425
of September each year thereafter, the chancellor of the board of	24426

~~regents shall prepare and submit to the governor, the president of 24427
the senate, and the speaker of the house of representatives a 24428
report that describes the number and types of biobased products 24429
purchased under section 125.092 of the Revised Code and the amount 24430
of money spent by state institutions of higher education for those 24431
biobased products as that information is provided to the 24432
chancellor under division (A) of this section. 24433~~

~~(C) As used in this section, "state institution of higher 24434
education" has the same meaning as in section 3345.011 of the 24435
Revised Code. 24436~~

Sec. 3347.03. Each commission created by section 3347.01 of 24437
the Revised Code may acquire property of any kind by purchase, 24438
gift, or devise and hold and use any such property, or may use 24439
state lands at their respective universities upon consent of the 24440
respective boards of trustees thereof, for the erection, 24441
remodeling, or improving and equipping of buildings for suitable 24442
housing, dormitory, dining hall, and recreational accommodations, 24443
referred to as "buildings" in sections 3347.03 to 3347.08 of the 24444
Revised Code, for students, instructors, members of the faculty, 24445
the administration and maintenance staff of the universities with 24446
which each commission is identified, and their families. The 24447
construction, remodeling, or improving of any such buildings shall 24448
be in accordance with plans and specifications approved by the 24449
commission and with sections 153.01 and 153.04 to 153.20 of the 24450
Revised Code, except that the commission may act in all instances 24451
where the ~~department of administrative services~~ Ohio facilities 24452
construction commission is mentioned in such sections. 24453

Sec. 3383.02. (A) There is hereby created the Ohio cultural 24454
facilities commission. The commission shall engage in and provide 24455
for the development, performance, and presentation or making 24456
available of culture and professional sports and athletics to the 24457

public in this state, and the provision of training or education 24458
in culture, by the exercise of its powers under this chapter, 24459
including the provision, operation, management, and cooperative 24460
use of Ohio cultural facilities and Ohio sports facilities. The 24461
commission is a body corporate and politic, an agency of state 24462
government and an instrumentality of the state, performing 24463
essential governmental functions of this state. The carrying out 24464
of the purposes and the exercise by the commission of its powers 24465
conferred by this chapter are essential public functions and 24466
public purposes of the state and of state government. The 24467
commission may, in its own name, sue and be sued, enter into 24468
contracts, and perform all the powers and duties given to it by 24469
this chapter; however, it does not have and shall not exercise the 24470
power of eminent domain. 24471

(B) The commission shall consist of twelve members, nine of 24472
whom shall be voting members and three of whom shall be nonvoting 24473
members. The nine voting members shall be appointed by the 24474
governor, with the advice and consent of the senate, from 24475
different geographical regions of the state. In addition, one of 24476
the voting members shall represent the ~~state architect~~ Ohio 24477
facilities construction commission. Not more than five of the 24478
members appointed by the governor shall be affiliated with the 24479
same political party. The nonvoting members shall be the staff 24480
director of the Ohio arts council, a member of the senate 24481
appointed by the president of the senate, and a member of the 24482
house of representatives appointed by the speaker of the house. 24483

(C) Of the five initial appointments made by the governor, 24484
one shall be for a term expiring December 31, 1989, two shall be 24485
for terms expiring December 31, 1990, and two shall be for terms 24486
expiring December 31, 1991. Of the initial appointments of the 24487
sixth and seventh voting members made by the governor, one shall 24488
be for a term expiring December 31, 2003, and one shall be for a 24489

term expiring December 31, 2004. Of the initial appointments of 24490
the eighth and ninth voting members made by the governor, one 24491
shall be for a term expiring December 31, 2007, and one shall be 24492
for a term expiring December 31, 2008. These voting members shall 24493
be appointed within sixty days after ~~the effective date of this~~ 24494
~~amendment~~ September 29, 2005. Thereafter, each such term shall be 24495
for three years, commencing on the first day of January and ending 24496
on the thirty-first day of December. Each appointment by the 24497
president of the senate and by the speaker of the house of 24498
representatives shall be for the balance of the then legislative 24499
biennium. Each member shall hold office from the date of the 24500
member's appointment until the end of the term for which the 24501
member was appointed. Any member appointed to fill a vacancy 24502
occurring prior to the expiration of the term for which the 24503
member's predecessor was appointed shall hold office for the 24504
remainder of such term. Any member shall continue in office 24505
subsequent to the expiration date of the member's term until the 24506
member's successor takes office, or until a period of sixty days 24507
has elapsed, whichever occurs first. 24508

(D) Members of the commission shall serve without 24509
compensation. 24510

(E) Organizational meetings of the commission shall be held 24511
at the first meeting of each calendar year. At each organizational 24512
meeting, the commission shall elect from among its voting members 24513
a chairperson, a vice-chairperson, and a secretary-treasurer, who 24514
shall serve until the next annual meeting. The commission shall 24515
adopt rules pursuant to section 111.15 of the Revised Code for the 24516
conduct of its internal business and shall keep a journal of its 24517
proceedings. 24518

(F) Five voting members of the commission constitute a 24519
quorum, and the affirmative vote of five members is necessary for 24520
approval of any action taken by the commission. A vacancy in the 24521

membership of the commission does not impair a quorum from 24522
exercising all the rights and performing all the duties of the 24523
commission. Meetings of the commission may be held anywhere in the 24524
state, and shall be held in compliance with section 121.22 of the 24525
Revised Code. 24526

(G) All expenses incurred in carrying out this chapter are 24527
payable solely from money accrued under this chapter or 24528
appropriated for these purposes by the general assembly, and the 24529
commission shall incur no liability or obligation beyond such 24530
money. 24531

(H) The commission shall file an annual report of its 24532
activities and finances with the governor, director of budget and 24533
management, speaker of the house of representatives, president of 24534
the senate, and chairpersons of the house and senate finance 24535
committees. 24536

(I) There is hereby established in the state treasury the 24537
Ohio cultural facilities commission administration fund. All 24538
revenues of the commission shall be credited to that fund and to 24539
any accounts created in that fund with the commission's approval. 24540
All expenses of the commission, including reimbursement of, or 24541
payment to, any other fund or any governmental agency for advances 24542
made or services rendered to or on behalf of the commission, shall 24543
be paid from that fund as determined by or pursuant to directions 24544
of the commission. All investment earnings of that fund shall be 24545
credited to it and shall be allocated among any accounts created 24546
in the fund in the manner determined by the commission. 24547

(J) Title to all real property and lesser interests in real 24548
property acquired by the commission, including leasehold and other 24549
interests, pursuant to this chapter shall be taken in the name of 24550
the state and shall be held for the use and benefit of the 24551
commission. The commission shall not mortgage such real property 24552
and interests in real property. Title to other property and 24553

interests in it acquired by the commission pursuant to this 24554
chapter shall be taken in its name. 24555

Sec. 3383.07. (A) ~~The department of administrative services~~ 24556
Ohio facilities construction commission shall provide for the 24557
construction of a cultural project in conformity with Chapter 153. 24558
of the Revised Code, except as follows: 24559

(1) For a cultural project other than a state historical 24560
facility, construction services may be provided on behalf of the 24561
state by the Ohio cultural facilities commission, or by a 24562
governmental agency or a cultural organization that occupies, will 24563
occupy, or is responsible for the Ohio cultural facility, as 24564
determined by the Ohio cultural facilities commission. For a 24565
project receiving a state appropriation of fifty thousand dollars 24566
or less, the Ohio cultural facilities commission may delegate to 24567
its executive director the authority to approve the provision of 24568
construction services by such an agency or organization, but not 24569
the authority to disapprove that provision. Construction services 24570
to be provided by a governmental agency or a cultural organization 24571
shall be specified in an agreement between the Ohio cultural 24572
facilities commission and the governmental agency or cultural 24573
organization. The agreement, or any actions taken under it, are 24574
not subject to Chapter 123. or 153. of the Revised Code, except 24575
for sections 123.081 and 153.011 of the Revised Code, and shall be 24576
subject to Chapter 4115. of the Revised Code. 24577

(2) For a cultural project that is a state historical 24578
facility, construction services may be provided by the Ohio 24579
cultural facilities commission or by a cultural organization that 24580
occupies, will occupy, or is responsible for the facility, as 24581
determined by the Ohio cultural facilities commission. For a 24582
facility receiving a state appropriation of fifty thousand dollars 24583
or less, the Ohio cultural facilities commission may delegate to 24584

its executive director the authority to approve the provision of 24585
construction services by such an organization, but not the 24586
authority to disapprove that provision. The construction services 24587
to be provided by the cultural organization shall be specified in 24588
an agreement between the Ohio cultural facilities commission and 24589
the cultural organization. That agreement, and any actions taken 24590
under it, are not subject to Chapter 123., 153., or 4115. of the 24591
Revised Code. 24592

(B) For an Ohio sports facility that is financed in part by 24593
obligations issued pursuant to Chapter 154. of the Revised Code, 24594
construction services shall be provided on behalf of the state by 24595
or at the direction of the governmental agency or nonprofit 24596
corporation that will own or be responsible for the management of 24597
the facility, all as determined by the Ohio cultural facilities 24598
commission. For a facility receiving a state appropriation of 24599
fifty thousand dollars or less, the Ohio cultural facilities 24600
commission may delegate to its executive director the authority to 24601
approve the provision of construction services by or at the 24602
direction of the agency or corporation, but not the authority to 24603
disapprove that provision. Any construction services to be 24604
provided by a governmental agency or nonprofit corporation shall 24605
be specified in an agreement between the Ohio cultural facilities 24606
commission and the governmental agency or nonprofit corporation. 24607
That agreement, and any actions taken under it, are not subject to 24608
Chapter 123. or 153. of the Revised Code, except for sections 24609
123.081 and 153.011 of the Revised Code, and shall be subject to 24610
Chapter 4115. of the Revised Code. 24611

(C) General building services for an Ohio cultural facility 24612
shall be provided by the Ohio cultural facilities commission or by 24613
a cultural organization that occupies, will occupy, or is 24614
responsible for the facility, as determined by the Ohio cultural 24615
facilities commission. For a facility receiving a state 24616

appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to approve the provision of general building services by such an organization, but not the authority to disapprove that provision. Alternatively, the Ohio building authority may elect to provide those services for Ohio cultural facilities financed with proceeds of state bonds issued by the authority. The costs of management and general building services shall be paid by the cultural organization that occupies, will occupy, or is responsible for the facility as provided in an agreement between the Ohio cultural facilities commission and the cultural organization, except that the state may pay for general building services for state-owned cultural facilities constructed on state-owned land.

General building services for an Ohio sports facility shall be provided by or at the direction of the governmental agency or nonprofit corporation that will be responsible for the management of the facility, all as determined by the Ohio cultural facilities commission. For a facility receiving a state appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to approve the provision of general building services by or at the direction of the agency or corporation, but not the authority to disapprove that provision. Any general building services to be provided by a governmental agency or nonprofit corporation for an Ohio sports facility shall be specified in an agreement between the Ohio cultural facilities commission and the governmental agency or nonprofit corporation. That agreement, and any actions taken under it, are not subject to Chapter 123. or 153. of the Revised Code, except for sections 123.081 and 153.011 of the Revised Code, and shall be subject to Chapter 4115. of the Revised Code.

(D) This division does not apply to a state historical facility. No state funds, including any state bond proceeds, shall be spent on the construction of any cultural project under this chapter unless, with respect to the cultural project and to the Ohio cultural facility related to the project, all of the following apply:

(1) The Ohio cultural facilities commission has determined that there is a need for the cultural project and the Ohio cultural facility related to the project in the region of the state in which the Ohio cultural facility is located or for which the facility is proposed. For a project receiving a state appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to determine need but only in the affirmative.

(2) The Ohio cultural facilities commission has determined that, as an indication of substantial regional support for the cultural project, the cultural organization has made provision satisfactory to the Ohio cultural facilities commission, in its sole discretion, for local contributions amounting to not less than fifty per cent of the total state funding for the cultural project. For a project receiving a state appropriation of fifty thousand dollars or less, the Ohio cultural facilities commission may delegate to its executive director the authority to determine the adequacy of the regional support but only in the affirmative.

(3) The general assembly has specifically authorized the spending of money on, or made an appropriation for, the construction of the cultural project, or for rental payments relating to the financing of the construction of the cultural project. Authorization to spend money, or an appropriation, for planning the cultural project does not constitute authorization to spend money on, or an appropriation for, construction of the cultural project.

(E) No state funds, including any state bond proceeds, shall 24681
be spent on the construction of any state historical facility 24682
under this chapter unless the general assembly has specifically 24683
authorized the spending of money on, or made an appropriation for, 24684
the construction of the state historical project related to the 24685
facility, or for rental payments relating to the financing of the 24686
construction of the state historical project. Authorization to 24687
spend money, or an appropriation, for planning the state 24688
historical project does not constitute authorization to spend 24689
money on, or an appropriation for, the construction of the state 24690
historical project. 24691

(F) State funds shall not be used to pay or reimburse more 24692
than fifteen per cent of the initial estimated construction cost 24693
of an Ohio sports facility, excluding any site acquisition cost, 24694
and no state funds, including any state bond proceeds, shall be 24695
spent on any Ohio sports facility under this chapter unless, with 24696
respect to that facility, all of the following apply: 24697

(1) The Ohio cultural facilities commission has determined 24698
that there is a need for the facility in the region of the state 24699
for which the facility is proposed to provide the function of an 24700
Ohio sports facility as provided for in this chapter. For a 24701
facility receiving a state appropriation of fifty thousand dollars 24702
or less, the Ohio cultural facilities commission may delegate to 24703
its executive director the authority to determine need but only in 24704
the affirmative. 24705

(2) As an indication of substantial local support for the 24706
facility, the Ohio cultural facilities commission has received a 24707
financial and development plan satisfactory to it, and provision 24708
has been made, by agreement or otherwise, satisfactory to the Ohio 24709
cultural facilities commission, for a contribution amounting to 24710
not less than eighty-five per cent of the total estimated 24711
construction cost of the facility, excluding any site acquisition 24712

cost, from sources other than the state. For a facility receiving 24713
a state appropriation of fifty thousand dollars or less, the Ohio 24714
cultural facilities commission may delegate to its executive 24715
director the authority to evaluate the financial and development 24716
plan and the contribution and to determine their adequacy but only 24717
in the affirmative. 24718

(3) The general assembly has specifically authorized the 24719
spending of money on, or made an appropriation for, the 24720
construction of the facility, or for rental payments relating to 24721
state financing of all or a portion of the costs of constructing 24722
the facility. Authorization to spend money, or an appropriation, 24723
for planning or determining the feasibility of or need for the 24724
facility does not constitute authorization to spend money on, or 24725
an appropriation for, costs of constructing the facility. 24726

(4) If state bond proceeds are being used for the Ohio sports 24727
facility, the state or a governmental agency owns or has 24728
sufficient property interests in the facility or in the site of 24729
the facility or in the portion or portions of the facility 24730
financed from proceeds of state bonds, which may include, but is 24731
not limited to, the right to use or to require the use of the 24732
facility for the presentation of sport and athletic events to the 24733
public at the facility. 24734

(G) In addition to the requirements of division (F) of this 24735
section, no state funds, including any state bond proceeds, shall 24736
be spent on any Ohio sports facility that is a motorsports 24737
complex, unless, with respect to that facility, both of the 24738
following apply: 24739

(1) Motorsports events shall be presented at the facility 24740
pursuant to a lease entered into with the owner of the facility. 24741
The term of the lease shall be for a period of not less than the 24742
greater of the useful life of the portion of the facility financed 24743
from proceeds of state bonds as determined using the guidelines 24744

for maximum maturities as provided under divisions (B) and (C) of 24745
section 133.20 of the Revised Code, or the period of time 24746
remaining to the date of payment or provision for payment of 24747
outstanding state bonds allocable to costs of the facility, all as 24748
determined by the director of budget and management and certified 24749
by the director to the Ohio cultural facilities commission and to 24750
the treasurer of state. 24751

(2) Any motorsports organization that commits to using the 24752
facility for an established period of time shall give the 24753
political subdivision in which the facility is located not less 24754
than six months' advance notice if the organization intends to 24755
cease utilizing the facility prior to the expiration of that 24756
established period. Such a motorsports organization shall be 24757
liable to the state for any state funds used on the construction 24758
costs of the facility. 24759

(H) In addition to the requirements of division (F) of this 24760
section, no state bond proceeds shall be spent on any Ohio sports 24761
facility that is a tennis facility, unless the owner or manager of 24762
the facility provides contractual commitments from a national or 24763
international professional tennis organization in a form 24764
acceptable to the cultural facilities commission that assures that 24765
one or more sanctioned professional tennis events will be 24766
presented at the facility during each year that the bonds remain 24767
outstanding. 24768

Sec. 3701.021. (A) The ~~public director of health council~~ 24769
shall adopt, in accordance with Chapter 119. of the Revised Code, 24770
such rules as are necessary to carry out sections 3701.021 to 24771
3701.0210 of the Revised Code, including, but not limited to, 24772
rules to establish the following: 24773

(1) Medical and financial eligibility requirements for the 24774
program for medically handicapped children; 24775

(2) Eligibility requirements for providers of services for medically handicapped children;	24776 24777
(3) Procedures to be followed by the department of health in disqualifying providers for violating requirements adopted under division (A)(2) of this section;	24778 24779 24780
(4) Procedures to be used by the department regarding application for diagnostic services under division (B) of section 3701.023 of the Revised Code and payment for those services under division (E) of that section;	24781 24782 24783 24784
(5) Standards for the provision of service coordination by the department of health and city and general health districts;	24785 24786
(6) Procedures for the department to use to determine the amount to be paid annually by each county for services for medically handicapped children and to allow counties to retain funds under divisions (A)(2) and (3) of section 3701.024 of the Revised Code;	24787 24788 24789 24790 24791
(7) Financial eligibility requirements for services for Ohio residents twenty-one years of age or older who have cystic fibrosis;	24792 24793 24794
(8) Criteria for payment of approved providers who provide services for medically handicapped children;	24795 24796
(9) Criteria for the department to use in determining whether the payment of health insurance premiums of participants in the program for medically handicapped children is cost-effective;	24797 24798 24799
(10) Procedures for appeal of denials of applications under divisions (A) and (D) of section 3701.023 of the Revised Code, disqualification of providers, and amounts paid for services;	24800 24801 24802
(11) Terms of appointment for members of the medically handicapped children's medical advisory council created in section 3701.025 of the Revised Code;	24803 24804 24805

(12) Eligibility requirements for the hemophilia program, 24806
including income and hardship requirements; 24807

(13) If a manufacturer discount program is established under 24808
division (J)(1) of section 3701.023 of the Revised Code, 24809
procedures for administering the program, including criteria and 24810
other requirements for participation in the program by 24811
manufacturers of drugs and nutritional formulas. 24812

(B) The department of health shall develop a manual of 24813
operational procedures and guidelines for the program for 24814
medically handicapped children to implement sections 3701.021 to 24815
3701.0210 of the Revised Code. 24816

Sec. 3701.023. (A) The department of health shall review 24817
applications for eligibility for the program for medically 24818
handicapped children that are submitted to the department by city 24819
and general health districts and physician providers approved in 24820
accordance with division (C) of this section. The department shall 24821
determine whether the applicants meet the medical and financial 24822
eligibility requirements established by the ~~public~~ director of 24823
health ~~council~~ pursuant to division (A)(1) of section 3701.021 of 24824
the Revised Code, and by the department in the manual of 24825
operational procedures and guidelines for the program for 24826
medically handicapped children developed pursuant to division (B) 24827
of that section. Referrals of potentially eligible children for 24828
the program may be submitted to the department on behalf of the 24829
child by parents, guardians, public health nurses, or any other 24830
interested person. The department of health may designate other 24831
agencies to refer applicants to the department of health. 24832

(B) In accordance with the procedures established in rules 24833
adopted under division (A)(4) of section 3701.021 of the Revised 24834
Code, the department of health shall authorize a provider or 24835
providers to provide to any Ohio resident under twenty-one years 24836

of age, without charge to the resident or the resident's family 24837
and without restriction as to the economic status of the resident 24838
or the resident's family, diagnostic services necessary to 24839
determine whether the resident has a medically handicapping or 24840
potentially medically handicapping condition. 24841

(C) The department of health shall review the applications of 24842
health professionals, hospitals, medical equipment suppliers, and 24843
other individuals, groups, or agencies that apply to become 24844
providers. The department shall enter into a written agreement 24845
with each applicant who is determined, pursuant to the 24846
requirements set forth in rules adopted under division (A)(2) of 24847
section 3701.021 of the Revised Code, to be eligible to be a 24848
provider in accordance with the provider agreement required by the 24849
medical assistance program established under section 5111.01 of 24850
the Revised Code. No provider shall charge a medically handicapped 24851
child or the child's parent or guardian for services authorized by 24852
the department under division (B) or (D) of this section. 24853

The department, in accordance with rules adopted under 24854
division (A)(3) of section 3701.021 of the Revised Code, may 24855
disqualify any provider from further participation in the program 24856
for violating any requirement set forth in rules adopted under 24857
division (A)(2) of that section. The disqualification shall not 24858
take effect until a written notice, specifying the requirement 24859
violated and describing the nature of the violation, has been 24860
delivered to the provider and the department has afforded the 24861
provider an opportunity to appeal the disqualification under 24862
division (H) of this section. 24863

(D) The department of health shall evaluate applications from 24864
city and general health districts and approved physician providers 24865
for authorization to provide treatment services, service 24866
coordination, and related goods to children determined to be 24867
eligible for the program for medically handicapped children 24868

pursuant to division (A) of this section. The department shall 24869
authorize necessary treatment services, service coordination, and 24870
related goods for each eligible child in accordance with an 24871
individual plan of treatment for the child. As an alternative, the 24872
department may authorize payment of health insurance premiums on 24873
behalf of eligible children when the department determines, in 24874
accordance with criteria set forth in rules adopted under division 24875
(A)(9) of section 3701.021 of the Revised Code, that payment of 24876
the premiums is cost-effective. 24877

(E) The department of health shall pay, from appropriations 24878
to the department, any necessary expenses, including but not 24879
limited to, expenses for diagnosis, treatment, service 24880
coordination, supportive services, transportation, and accessories 24881
and their upkeep, provided to medically handicapped children, 24882
provided that the provision of the goods or services is authorized 24883
by the department under division (B) or (D) of this section. Money 24884
appropriated to the department of health may also be expended for 24885
reasonable administrative costs incurred by the program. The 24886
department of health also may purchase liability insurance 24887
covering the provision of services under the program for medically 24888
handicapped children by physicians and other health care 24889
professionals. 24890

Payments made to providers by the department of health 24891
pursuant to this division for inpatient hospital care, outpatient 24892
care, and all other medical assistance furnished to eligible 24893
recipients shall be made in accordance with rules adopted by the 24894
~~public director of health council~~ pursuant to division (A) of 24895
section 3701.021 of the Revised Code. 24896

The departments of health and job and family services shall 24897
jointly implement procedures to ensure that duplicate payments are 24898
not made under the program for medically handicapped children and 24899
the medical assistance program established under section 5111.01 24900

of the Revised Code and to identify and recover duplicate 24901
payments. 24902

(F) At the time of applying for participation in the program 24903
for medically handicapped children, a medically handicapped child 24904
or the child's parent or guardian shall disclose the identity of 24905
any third party against whom the child or the child's parent or 24906
guardian has or may have a right of recovery for goods and 24907
services provided under division (B) or (D) of this section. The 24908
department of health shall require a medically handicapped child 24909
who receives services from the program or the child's parent or 24910
guardian to apply for all third-party benefits for which the child 24911
may be eligible and require the child, parent, or guardian to 24912
apply all third-party benefits received to the amount determined 24913
under division (E) of this section as the amount payable for goods 24914
and services authorized under division (B) or (D) of this section. 24915
The department is the payer of last resort and shall pay for 24916
authorized goods or services, up to the amount determined under 24917
division (E) of this section for the authorized goods or services, 24918
only to the extent that payment for the authorized goods or 24919
services is not made through third-party benefits. When a third 24920
party fails to act on an application or claim for benefits by a 24921
medically handicapped child or the child's parent or guardian, the 24922
department shall pay for the goods or services only after ninety 24923
days have elapsed since the date the child, parents, or guardians 24924
made an application or claim for all third-party benefits. 24925
Third-party benefits received shall be applied to the amount 24926
determined under division (E) of this section. Third-party 24927
payments for goods and services not authorized under division (B) 24928
or (D) of this section shall not be applied to payment amounts 24929
determined under division (E) of this section. Payment made by the 24930
department shall be considered payment in full of the amount 24931
determined under division (E) of this section. Medicaid payments 24932
for persons eligible for the medical assistance program 24933

established under section 5111.01 of the Revised Code shall be 24934
considered payment in full of the amount determined under division 24935
(E) of this section. 24936

(G) The department of health shall administer a program to 24937
provide services to Ohio residents who are twenty-one or more 24938
years of age who have cystic fibrosis and who meet the eligibility 24939
requirements established ~~by the~~ in rules ~~of~~ adopted by the ~~public~~ 24940
director of health council pursuant to division (A)(7) of section 24941
3701.021 of the Revised Code, subject to all provisions of this 24942
section, but not subject to section 3701.024 of the Revised Code. 24943

(H) The department of health shall provide for appeals, in 24944
accordance with rules adopted under section 3701.021 of the 24945
Revised Code, of denials of applications for the program for 24946
medically handicapped children under division (A) or (D) of this 24947
section, disqualification of providers, or amounts paid under 24948
division (E) of this section. Appeals under this division are not 24949
subject to Chapter 119. of the Revised Code. 24950

The department may designate ombudspersons to assist 24951
medically handicapped children or their parents or guardians, upon 24952
the request of the children, parents, or guardians, in filing 24953
appeals under this division and to serve as children's, parents', 24954
or guardians' advocates in matters pertaining to the 24955
administration of the program for medically handicapped children 24956
and eligibility for program services. The ombudspersons shall 24957
receive no compensation but shall be reimbursed by the department, 24958
in accordance with rules of the office of budget and management, 24959
for their actual and necessary travel expenses incurred in the 24960
performance of their duties. 24961

(I) The department of health, and city and general health 24962
districts providing service coordination pursuant to division 24963
(A)(2) of section 3701.024 of the Revised Code, shall provide 24964
service coordination in accordance with the standards set forth in 24965

the rules adopted under section 3701.021 of the Revised Code, 24966
without charge, and without restriction as to economic status. 24967

(J)(1) The department of health may establish a manufacturer 24968
discount program under which a manufacturer of a drug or 24969
nutritional formula is permitted to enter into an agreement with 24970
the department to provide a discount on the price of the drug or 24971
nutritional formula distributed to medically handicapped children 24972
participating in the program for medically handicapped children. 24973
The program shall be administered in accordance with rules adopted 24974
under section 3701.021 of the Revised Code. 24975

(2) If a manufacturer enters into an agreement with the 24976
department as described in division (J)(1) of this section, the 24977
manufacturer and the department may negotiate the amount and terms 24978
of the discount. 24979

(3) In lieu of establishing a discount program as described 24980
in division (J)(1) of this section, the department and a 24981
manufacturer of a drug or nutritional formula may discuss a 24982
donation of drugs, nutritional formulas, or money by the 24983
manufacturer to the department. 24984

Sec. 3701.024. (A)(1) Under a procedure established in rules 24985
adopted under section 3701.021 of the Revised Code, the department 24986
of health shall determine the amount each county shall provide 24987
annually for the program for medically handicapped children, based 24988
on a proportion of the county's total general property tax 24989
duplicate, not to exceed one-tenth of a mill, and charge the 24990
county for any part of expenses incurred under the program for 24991
treatment services on behalf of medically handicapped children 24992
having legal settlement in the county that is not paid from 24993
federal funds or through the medical assistance program 24994
established under section 5111.01 of the Revised Code. The 24995
department shall not charge the county for expenses exceeding the 24996

difference between the amount determined under division (A)(1) of 24997
this section and any amounts retained under divisions (A)(2) and 24998
(3) of this section. 24999

All amounts collected by the department under division (A)(1) 25000
of this section shall be deposited into the state treasury to the 25001
credit of the medically handicapped children-county assessment 25002
fund, which is hereby created. The fund shall be used by the 25003
department to comply with sections 3701.021 to 3701.028 of the 25004
Revised Code. 25005

(2) The department, in accordance with rules adopted under 25006
section 3701.021 of the Revised Code, may allow each county to 25007
retain up to ten per cent of the amount determined under division 25008
(A)(1) of this section to provide funds to city or general health 25009
districts of the county with which the districts shall provide 25010
service coordination, public health nursing, or transportation 25011
services for medically handicapped children. 25012

(3) In addition to any amount retained under division (A)(2) 25013
of this section, the department, in accordance with rules adopted 25014
under section 3701.021 of the Revised Code, may allow counties 25015
that it determines have significant numbers of potentially 25016
eligible medically handicapped children to retain an amount equal 25017
to the difference between: 25018

(a) Twenty-five per cent of the amount determined under 25019
division (A)(1) of this section; 25020

(b) Any amount retained under division (A)(2) of this 25021
section. 25022

Counties shall use amounts retained under division (A)(3) of 25023
this section to provide funds to city or general health districts 25024
of the county with which the districts shall conduct outreach 25025
activities to increase participation in the program for medically 25026
handicapped children. 25027

(4) Prior to any increase in the millage charged to a county, 25028
the ~~public director of health council~~ shall hold a public hearing 25029
on the proposed increase and shall give notice of the hearing to 25030
each board of county commissioners that would be affected by the 25031
increase at least thirty days prior to the date set for the 25032
hearing. Any county commissioner may appear and give testimony at 25033
the hearing. Any increase in the millage any county is required to 25034
provide for the program for medically handicapped children shall 25035
be determined, and notice of the amount of the increase shall be 25036
provided to each affected board of county commissioners, no later 25037
than the first day of June of the fiscal year next preceding the 25038
fiscal year in which the increase will take effect. 25039

(B) Each board of county commissioners shall establish a 25040
medically handicapped children's fund and shall appropriate 25041
thereto an amount, determined in accordance with division (A)(1) 25042
of this section, for the county's share in providing medical, 25043
surgical, and other aid to medically handicapped children residing 25044
in such county and for the purposes specified in divisions (A)(2) 25045
and (3) of this section. Each county shall use money retained 25046
under divisions (A)(2) and (3) of this section only for the 25047
purposes specified in those divisions. 25048

Sec. 3701.025. There is hereby created the medically 25049
handicapped children's medical advisory council consisting of 25050
twenty-one members to be appointed by the director of health for 25051
terms set in accordance with rules adopted by the ~~public health~~ 25052
~~council~~ director under division (A)(11) of section 3701.021 of the 25053
Revised Code. The medically handicapped children's medical 25054
advisory council shall advise the director regarding the 25055
administration of the program for medically handicapped children, 25056
the suitable quality of medical practice for providers, and the 25057
requirements for medical eligibility for the program. 25058

All members of the council shall be licensed physicians, 25059
surgeons, dentists, and other professionals in the field of 25060
medicine, representative of the various disciplines involved in 25061
the treatment of children with medically handicapping conditions, 25062
and representative of the treatment facilities involved, such as 25063
hospitals, private and public health clinics, and private 25064
physicians' offices, and shall be eligible for the program. 25065

Members of the council shall receive no compensation, but 25066
shall receive their actual and necessary travel expenses incurred 25067
in the performance of their official duties in accordance with the 25068
rules of the office of budget and management. 25069

Sec. 3701.027. (A) As used in this section, "affiliate" means 25070
an entity that has with another entity a legal relationship 25071
created or governed by at least one written instrument 25072
demonstrating any of the following: 25073

(1) Common ownership, management, or control; 25074

(2) A franchise agreement; 25075

(3) The granting or extension of a license or other agreement 25076
that authorizes an entity to use the other entity's brand name, 25077
trademark, service mark, or other registered identification mark. 25078

(B) The department of health shall administer funds received 25079
from the "Maternal and Child Health Block Grant," Title V of the 25080
"Social Security Act," 95 Stat. 818 (1981), 42 U.S.C.A. 701, as 25081
amended, for programs including the program for medically 25082
handicapped children, and to provide technical assistance and 25083
consultation to city and general health districts and local health 25084
planning organizations in implementing local, community-based, 25085
family-centered, coordinated systems of care for medically 25086
handicapped children. The department may make grants to persons 25087
and other entities for the provision of services with the funds. 25088

In addition, the department may use the funds to purchase liability insurance covering the provision of services under the programs by physicians and other health care professionals, and to pay health insurance premiums on behalf of medically handicapped children participating in the program for medically handicapped children when the department determines, in accordance with criteria set forth in rules adopted under division (A)(9) of section 3701.021 of the Revised Code, that payment of the premiums is cost effective.

In determining eligibility for services provided with funds received from the "Maternal and Child Health Block Grant," the department may use the application form established under section 5111.013 of the Revised Code. The department may require applicants to furnish their social security numbers.

(C) The department shall ensure that these funds are not used to do any of the following:

(1) Perform elective abortions;

(2) Promote elective abortions;

(3) Contract with any entity that performs or promotes elective abortions;

(4) Become or continue to be an affiliate of any entity that performs or promotes elective abortions.

Sec. 3701.03. (A) The director of health shall perform duties that are incident to the director's position as chief executive officer of the department of health. The director shall administer the laws relating to health and sanitation and the rules of the department of health. The director may designate employees of the department and, during a public health emergency, other persons to administer the laws and rules on the director's behalf.

25118

(B) Nothing in this section authorizes any action that 25119
prevents the fulfillment of duties or impairs the exercise of 25120
authority established by law for any other person or entity. 25121

~~(C) The director shall prepare sanitary and public health 25122
rules for consideration by the public health council and submit to 25123
the council recommendations for new legislation. The director 25124
shall sit at meetings of the council but shall have no vote. 25125~~

Sec. 3701.033. (A) Except as provided in division (B) of this 25126
section, all funds distributed by the department of health for the 25127
purpose of providing family planning services, including funds the 25128
department receives through Title X of the "Public Health Service 25129
Act," 84 Stat. 1504 (1970), 42 U.S.C. 300a, as amended, shall be 25130
awarded as follows: 25131

(1) The department shall award funds with foremost priority 25132
given to public entities that provide family planning services and 25133
are eligible for the funds. Such eligible public entities include 25134
community health clinics and similar health facilities operated by 25135
state, county, or local government entities. 25136

(2) To the extent funds are available after the department 25137
determines that all eligible public entities have been fully 25138
funded under division (A)(1) of this section, the department may 25139
award funds to nonpublic entities in the following order of 25140
descending priority: 25141

(a) Federally qualified health centers, as defined in section 25142
3701.047 of the Revised Code, and community action agencies, as 25143
defined in section 122.66 of the Revised Code; 25144

(b) Nonpublic entities that provide comprehensive primary and 25145
preventive care services in addition to family planning services; 25146

(c) Nonpublic entities that provide family planning services, 25147
but do not provide comprehensive primary and preventive care 25148

<u>services.</u>	25149
<u>(B) Division (A) of this section does not apply to any of the</u>	25150
<u>following:</u>	25151
<u>(1) Grants awarded by the department under section 3701.046</u>	25152
<u>of the Revised Code;</u>	25153
<u>(2) The administration by the department of funds received</u>	25154
<u>from the "Maternal and Child Health Block Grant," Title V of the</u>	25155
<u>"Social Security Act," 95 Stat. 818 (1981), 42 U.S.C. 701, as</u>	25156
<u>amended, as provided in section 3701.027 of the Revised Code;</u>	25157
<u>(3) Any federally funded program administered by the</u>	25158
<u>department that does not allow states to disqualify applicants for</u>	25159
<u>funds for the purpose of providing family planning services.</u>	25160
<u>Sec. 3701.034. (A) As used in this section:</u>	25161
<u>(1) "Affiliate" means an entity that has with another entity</u>	25162
<u>a legal relationship created or governed by at least one written</u>	25163
<u>instrument that demonstrates any of the following:</u>	25164
<u>(a) Common ownership, management, or control;</u>	25165
<u>(b) A franchise agreement;</u>	25166
<u>(c) The granting or extension of a license or other agreement</u>	25167
<u>that authorizes an entity to use the other entity's brand name,</u>	25168
<u>trademark, service mark, or other registered identification mark.</u>	25169
<u>(2) "Violence Against Women Act" means section 1910A of</u>	25170
<u>section 40151 of the "Violent Crime Control and Law Enforcement</u>	25171
<u>Act of 1994," part A of Title XIX of the "Public Health and Human</u>	25172
<u>Services Act," 108 Stat. 1920 (1994), former 42 U.S.C. 300w, 42</u>	25173
<u>U.S.C. 280b-1b, as amended.</u>	25174
<u>(3) "Breast and Cervical Cancer Mortality Prevention Act"</u>	25175
<u>means the "Breast and Cervical Cancer Mortality Prevention Act of</u>	25176
<u>1990," 104 Stat. 409 (1990), 42 U.S.C. 300k, as amended.</u>	25177

<u>(4) "Infertility prevention project" means the infertility prevention project operated by the United States centers for disease control and prevention.</u>	25178 25179 25180
<u>(5) "Minority HIV/AIDS initiative" means the minority HIV/AIDS initiative operated by the office of minority health in the United States department of health and human services.</u>	25181 25182 25183
<u>(B) The department of health shall ensure that all funds it receives through the Violence Against Women Act to distribute as grants for the purpose of education and prevention of violence against women are not used to do any of the following:</u>	25184 25185 25186 25187
<u>(1) Perform elective abortions;</u>	25188
<u>(2) Promote elective abortions;</u>	25189
<u>(3) Contract with any entity that performs or promotes elective abortions;</u>	25190 25191
<u>(4) Become or continue to be an affiliate of any entity that performs or promotes elective abortions.</u>	25192 25193
<u>(C) The department shall ensure that all funds it receives through the Breast and Cervical Cancer Mortality Prevention Act for a program to provide breast and cervical cancer screening and diagnostic testing and all federal and state funds that it uses to operate such a program are not used to do any of the following:</u>	25194 25195 25196 25197 25198
<u>(1) Perform elective abortions;</u>	25199
<u>(2) Promote elective abortions;</u>	25200
<u>(3) Contract with any entity that performs or promotes elective abortions;</u>	25201 25202
<u>(4) Become or continue to be an affiliate of any entity that performs or promotes elective abortions.</u>	25203 25204
<u>(D) The department shall ensure that all materials it receives through the infertility prevention project are not</u>	25205 25206

distributed to entities that do any of the following and shall 25207
ensure that all funds it uses for treatment associated with the 25208
infertility prevention project are not used to do any of the 25209
following: 25210

(1) Perform elective abortions; 25211

(2) Promote elective abortions; 25212

(3) Contract with any entity that performs or promotes 25213
elective abortions; 25214

(4) Become or continue to be an affiliate of any entity that 25215
performs or promotes elective abortions. 25216

(E) The department shall ensure that all funds it receives 25217
through the minority HIV/AIDS initiative to distribute as grants 25218
and all other federal and state funds that are part of the grants 25219
distributed under this initiative are not used to do any of the 25220
following: 25221

(1) Perform elective abortions; 25222

(2) Promote elective abortions; 25223

(3) Contract with any entity that performs or promotes 25224
elective abortions; 25225

(4) Become or continue to be an affiliate of any entity that 25226
performs or promotes elective abortions. 25227

Sec. 3701.05. The director of health shall keep ~~the public~~ 25228
~~health council,~~ health officials, and the general public fully 25229
informed in a printed annual report in regard to the work of the 25230
department of health and on the progress that is being made in 25231
studying the cause and prevention of disease and such kindred 25232
subjects as may contribute to the welfare of the people of the 25233
state. 25234

Sec. 3701.07. (A) The ~~public~~ director of health council shall 25235
adopt rules in accordance with Chapter 119. of the Revised Code 25236
defining and classifying hospitals and dispensaries and providing 25237
for the reporting of information by hospitals and dispensaries. 25238
Except as otherwise provided in the Revised Code, the rules 25239
providing for the reporting of information shall not require 25240
inclusion of any confidential patient data or any information 25241
concerning the financial condition, income, expenses, or net worth 25242
of the facilities other than that financial information already 25243
contained in those portions of the medicare or medicaid cost 25244
report that is necessary for the department of health to certify 25245
the per diem cost under section 3701.62 of the Revised Code. The 25246
rules may require the reporting of information in the following 25247
categories: 25248

(1) Information needed to identify and classify the 25249
institution; 25250

(2) Information on facilities and type and volume of services 25251
provided by the institution; 25252

(3) The number of beds listed by category of care provided; 25253

(4) The number of licensed or certified professional 25254
employees by classification; 25255

(5) The number of births that occurred at the institution the 25256
previous calendar year; 25257

(6) Any other information that the ~~council~~ director considers 25258
relevant to the safety of patients served by the institution. 25259

Every hospital and dispensary, public or private, annually 25260
shall register with and report to the department of health. 25261
Reports shall be submitted in the manner prescribed in rules 25262
adopted under this division. 25263

(B) Every governmental entity or private nonprofit 25264

corporation or association whose employees or representatives are 25265
defined as residents' rights advocates under divisions (E)(1) and 25266
(2) of section 3721.10 of the Revised Code shall register with the 25267
department of health on forms furnished by the director of health 25268
and shall provide such reasonable identifying information as the 25269
director may prescribe. 25270

The department shall compile a list of the governmental 25271
entities, corporations, or associations registering under this 25272
division and shall update the list annually. Copies of the list 25273
shall be made available to nursing home administrators as defined 25274
in division (C) of section 3721.10 of the Revised Code ~~and to~~ 25275
~~adult care facility managers as defined in section 5119.70 of the~~ 25276
~~Revised Code.~~ 25277

Sec. 3701.072. (A) As used in this chapter: 25278

(1) "Bioterrorism" has the same meaning as in section 25279
3701.232 of the Revised Code. 25280

(2) "Surveillance" in the public health service means the 25281
systematic collection, analysis, interpretation, and dissemination 25282
of health data on an ongoing basis, to gain knowledge of the 25283
pattern of disease occurrence and potential in a community in 25284
order to control and prevent disease in the community. 25285

(3) "Trauma center" has the same meaning as in section 25286
4765.01 of the Revised Code. 25287

(B) The ~~public~~ director of health ~~council~~ shall adopt rules 25288
in accordance with Chapter 119. of the Revised Code that require a 25289
trauma center to report information to the director of health 25290
describing the trauma center's preparedness and capacity to 25291
respond to disasters, mass casualties, and bioterrorism. The 25292
~~council's~~ director's rules may require the reporting of any 25293
information the ~~council~~ director considers necessary for an 25294

accurate description of a trauma center's preparedness and 25295
capacity to respond to disasters, mass casualties, and 25296
bioterrorism. Information reported pursuant to this division is 25297
not a public record under section 149.43 of the Revised Code. 25298

(C) Upon request, the department of health shall provide a 25299
summary report of the ~~public health council's~~ rules adopted 25300
pursuant to this section. 25301

(D) The director shall review all information received 25302
pursuant to this section. After reviewing the information, the 25303
director may conduct an evaluation of a trauma center's 25304
preparedness and capacity to respond to disasters, mass 25305
casualties, and bioterrorism. An evaluation conducted pursuant to 25306
this division is not a public record under section 149.43 of the 25307
Revised Code. 25308

Sec. 3701.11. The director of health ~~and the secretary of the~~ 25309
~~public health council~~ shall have power to administer oaths in all 25310
parts of the state so far as the exercise of such power is 25311
incidental to the performance of the duties of the director ~~or of~~ 25312
~~the council.~~ 25313

Sec. 3701.132. The department of health is hereby designated 25314
as the state agency to administer the "special supplemental 25315
nutrition program for women, infants, and children" established 25316
under the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 25317
1786, as amended. The ~~public~~ director of health ~~council~~ may adopt 25318
rules pursuant to Chapter 119. of the Revised Code as necessary 25319
for administering the program. The rules may include civil money 25320
penalties for violations of the rules. 25321

In determining eligibility for services provided under the 25322
program, the department may use the application form established 25323
under section 5111.013 of the Revised Code for the healthy start 25324

program. The department may require applicants to furnish their 25325
social security numbers. 25326

If the department determines that a vendor has committed an 25327
act with respect to the program that federal statutes or 25328
regulations or state statutes or rules prohibit, the department 25329
shall take action against the vendor in the manner required by 7 25330
C.F.R. part 246, including imposition of a civil money penalty in 25331
accordance with 7 C.F.R. 246.12, or rules adopted under this 25332
section. 25333

Sec. 3701.146. (A) In taking actions regarding tuberculosis, 25334
the director of health has all of the following duties and powers: 25335

(1) The director shall maintain registries of hospitals, 25336
clinics, physicians, or other care providers to whom the director 25337
shall refer persons who make inquiries to the department of health 25338
regarding possible exposure to tuberculosis. 25339

(2) The director shall engage in tuberculosis surveillance 25340
activities, including the collection and analysis of 25341
epidemiological information relative to the frequency of 25342
tuberculosis infection, demographic and geographic distribution of 25343
tuberculosis cases, and trends pertaining to tuberculosis. 25344

(3) The director shall maintain a tuberculosis registry to 25345
record the incidence of tuberculosis in this state. 25346

(4) The director may appoint physicians to serve as 25347
tuberculosis consultants for geographic regions of the state 25348
specified by the director. Each tuberculosis consultant shall act 25349
in accordance with rules the director establishes and shall be 25350
responsible for advising and assisting physicians and other health 25351
care practitioners who participate in tuberculosis control 25352
activities and for reviewing medical records pertaining to the 25353
treatment provided to individuals with tuberculosis. 25354

(B)(1) The public health council <u>director</u> shall adopt rules	25355
establishing standards for the following:	25356
(a) Performing tuberculosis screenings;	25357
(b) Performing examinations of individuals who have been	25358
exposed to tuberculosis and individuals who are suspected of	25359
having tuberculosis;	25360
(c) Providing treatment to individuals with tuberculosis;	25361
(d) Preventing individuals with communicable tuberculosis	25362
from infecting other individuals;	25363
(e) Performing laboratory tests for tuberculosis and studies	25364
of the resistance of tuberculosis to one or more drugs;	25365
(f) Selecting laboratories that provide in a timely fashion	25366
the results of a laboratory test for tuberculosis. The standards	25367
shall include a requirement that first consideration be given to	25368
laboratories located in this state.	25369
(2) Rules adopted pursuant to this section shall be adopted	25370
in accordance with Chapter 119. of the Revised Code and may be	25371
consistent with any recommendations or guidelines on tuberculosis	25372
issued by the United States centers for disease control and	25373
prevention or by the American thoracic society. The rules shall	25374
apply to county or district tuberculosis control units, physicians	25375
who examine and treat individuals for tuberculosis, and	25376
laboratories that perform tests for tuberculosis.	25377
Sec. 3701.161. The director of health shall make necessary	25378
arrangements for the production and distribution of diphtheria	25379
antitoxin. Such antitoxin shall in all respects be equal in purity	25380
and potency to the standard of requirements of the United States	25381
public health service for antitoxin for interstate commerce.	25382
Diphtheria antitoxin shall be distributed in accordance with rules	25383
the public health council <u>director</u> adopts pursuant to Chapter 119.	25384

of the Revised Code. 25385

Sec. 3701.20. (A) In accordance with rules adopted ~~by the~~ 25386
~~public health council,~~ under division (C) of this section, the 25387
director of health shall establish, promote, and maintain the Ohio 25388
poison control network; designate regions within the network; and 25389
designate poison prevention and treatment centers within each 25390
region. The purposes of the network are to: 25391

(1) Reduce the mortality resulting from and the expenditures 25392
incurred because of accidental, homicidal, suicidal, occupational, 25393
or environmental poisoning; 25394

(2) Educate the public and health care professionals 25395
concerning the prevention and treatment of exposure to poison; 25396

(3) Organize poison prevention and treatment activities on a 25397
regional basis to avoid duplication and waste. 25398

(B) To be eligible for designation as a poison prevention and 25399
treatment center and to retain the designation, a center must 25400
maintain compliance with the standards established by the ~~public~~ 25401
~~health council~~ director pursuant to division (C) of this section. 25402
A poison prevention and treatment center may be operated by an 25403
individual, hospital, institution of higher education, political 25404
subdivision, association, corporation, or public or private 25405
agency. 25406

(C) In accordance with Chapter 119. of the Revised Code, the 25407
~~public health council~~ director shall adopt rules that do the 25408
following: 25409

(1) Establish guidelines, based on population density and 25410
other relevant factors, and procedures to be followed ~~by the~~ 25411
~~director of health~~ in designating poison control network regions 25412
and centers; 25413

(2) Establish standards for the operation of poison 25414

prevention and treatment centers; 25415

(3) Establish standards and procedures to be followed ~~by the~~ 25416
~~director of health~~ in making grants to poison prevention and 25417
treatment centers; 25418

(4) Establish procedures, other than those prescribed by 25419
Chapter 119. of the Revised Code, for reconsideration, at the 25420
request of the entity affected, of the denial or revocation of a 25421
designation as a poison prevention and treatment center. 25422

(D) In accordance with rules adopted ~~by the public health~~ 25423
~~council under division (C) of this section~~, the director of health 25424
shall make grants to poison prevention and treatment centers. A 25425
center is not eligible for a grant unless, prior to receiving the 25426
grant, the entity that operates the center agrees in writing that 25427
the level of the total funds, labor, and services devoted by the 25428
entity to the center during the period of the grant will 25429
approximate, as determined by the director of health, the level of 25430
the total funds, labor, and services devoted to the center by that 25431
entity in the fiscal year preceding the fiscal year in which the 25432
grant begins. 25433

(E) Each poison prevention and treatment center shall do all 25434
of the following: 25435

(1) Maintain and staff a twenty-four-hour per day, toll-free, 25436
telephone line to respond to inquiries and provide information 25437
about poison prevention and treatment and available services; 25438

(2) Provide specialized treatment, consultation, information, 25439
and educational programs to health care professionals and the 25440
public; 25441

(3) Compile information on the types and frequency of 25442
treatment it provides. 25443

A center may provide the services described in divisions 25444

(E)(1) and (2) of this section either directly or through contract 25445
with other facilities, as the director of health considers 25446
appropriate. Each center shall take measures to ensure the 25447
confidentiality of information about individuals to whom treatment 25448
or services are provided. 25449

(F) The director of health may revoke the designation of a 25450
poison treatment and control center, or deny an application for 25451
designation, if the center or applicant fails to meet or maintain 25452
the standards established ~~by rule of the public health council in~~ 25453
rules adopted under division (C) of this section. The entity 25454
seeking the designation may have the revocation or denial 25455
reconsidered in accordance with rules adopted ~~by the public health~~ 25456
~~council~~ under division (C) of this section. 25457

(G)(1) A poison prevention and treatment center, its 25458
officers, employees, volunteers, or other persons associated with 25459
the center, and a person, organization, or institution that 25460
advises or assists a poison prevention and treatment center are 25461
not liable in damages in a tort action for harm that allegedly 25462
arises from advice or assistance rendered to any person unless the 25463
advice or assistance is given in a manner that constitutes willful 25464
or wanton misconduct or intentionally tortious conduct. 25465

(2) This section does not create, and shall not be construed 25466
as creating, a new cause of action or substantive legal right 25467
against a poison prevention and treatment center, its officers, 25468
employees, volunteers, or other persons associated with the 25469
center, or a person, organization, or institution that advises or 25470
assists a poison prevention and treatment center. 25471

(3) This section does not affect, and shall not be construed 25472
as affecting, any immunities from civil liability or defenses 25473
conferred by any other section of the Revised Code or available at 25474
common law, to which a poison prevention and treatment center, its 25475
officers, employees, volunteers, or other persons associated with 25476

the center or a person, organization, or institution that advises 25477
or assists a poison prevention and treatment center may be 25478
entitled under circumstances not specified by this section. 25479

(H) The director shall annually report to the general 25480
assembly findings and recommendations concerning the 25481
effectiveness, impact, and benefits of the poison prevention and 25482
treatment centers. 25483

Sec. 3701.201. (A) As used in this section, "bioterrorism" 25484
has the same meaning as in section 3701.232 of the Revised Code. 25485

(B) The ~~public~~ director of health ~~council~~ shall adopt rules 25486
in accordance with Chapter 119. of the Revised Code under which a 25487
poison prevention and treatment center or other health-related 25488
entity is required to report events that may be caused by 25489
bioterrorism, epidemic or pandemic disease, or established or 25490
novel infectious agents or biological or chemical toxins posing a 25491
risk of human fatality or disability. Rules adopted under this 25492
section may require a report of any of the following: 25493

(1) An unexpected pattern or increase in the number of 25494
telephone inquiries or requests to provide information about 25495
poison prevention and treatment and available services; 25496

(2) An unexpected pattern or increase in the number of 25497
requests to provide specialized treatment, consultation, 25498
information, and educational programs to health care professionals 25499
and the public; 25500

(3) An unexpected pattern or increase in the number of 25501
requests for information on established or novel infectious agents 25502
or biological or chemical toxins posing a risk of human fatality 25503
or disability that is relatively uncommon and may have been caused 25504
by bioterrorism. 25505

(C) Each poison prevention and treatment center and other 25506

health-related entity shall comply with any reporting requirement 25507
established in rules adopted under division (B) of this section. 25508

(D) Information reported under this section that is protected 25509
health information pursuant to section 3701.17 of the Revised Code 25510
shall be released only in accordance with that section. 25511
Information that does not identify an individual may be released 25512
in summary, statistical, or aggregate form. 25513

Sec. 3701.21. (A) As used in this section: 25514

(1) "Amblyopia" means reduced vision in an eye that has not 25515
received adequate use during early childhood. 25516

(2) "501(c) organization" means an organization exempt from 25517
federal income taxation pursuant to 26 U.S.C.A. 501(a) and (c). 25518

(B) There is hereby created in the state treasury the save 25519
our sight fund. The fund shall consist of voluntary contributions 25520
deposited as provided in section 4503.104 of the Revised Code. All 25521
investment earnings from the fund shall be credited to the fund. 25522

(C) The director of health shall use the money in the save 25523
our sight fund as follows: 25524

(1) To provide support to 501(c) organizations that offer 25525
vision services in all counties of the state and have demonstrated 25526
experience in the delivery of vision services to do one or more of 25527
the following: 25528

(a) Implement a voluntary children's vision screening 25529
training and certification program for volunteers, child care 25530
providers, nurses, teachers, health care professionals practicing 25531
in primary care settings, and others serving children; 25532

(b) Provide materials for the program implemented under 25533
division (C)(1)(a) of this section; 25534

(c) Develop and implement a registry and targeted voluntary 25535

case management system to determine whether children with 25536
amblyopia are receiving professional eye care and to provide their 25537
parents with information and support regarding their child's 25538
vision care; 25539

(d) Establish a matching grant program for the purchase and 25540
distribution of protective eyewear to children; 25541

(e) Provide vision health and safety programs and materials 25542
for classrooms. 25543

(2) For the purpose of section 4503.104 of the Revised Code, 25544
to develop and distribute informational materials on the 25545
importance of eye care and safety to the registrar of motor 25546
vehicles and each deputy registrar; 25547

(3) To pay costs incurred by the director in administering 25548
the fund; 25549

(4) To reimburse the bureau of motor vehicles for the 25550
administrative costs incurred in performing its duties under 25551
section 4503.104 of the Revised Code. 25552

(D) A 501(c) organization seeking funding from the save our 25553
sight fund for any of the projects specified in division (C) of 25554
this section shall submit a request for the funding to the 25555
director in accordance with rules adopted under division (E) of 25556
this section. The director shall determine the appropriateness of 25557
and approve or disapprove projects for funding and approve or 25558
disapprove the disbursement of money from the save our sight fund. 25559

(E) The ~~public health council~~ director shall adopt rules in 25560
accordance with Chapter 119. of the Revised Code to implement this 25561
section. The rules shall include the parameters of the projects 25562
specified in division (C)(1) of this section that may be funded 25563
with money in the save our sight fund and procedures for 501(c) 25564
organizations to request funding from the fund. 25565

Sec. 3701.221. (A) The director of health shall have charge 25566
of the public health laboratory authorized by section 3701.22 of 25567
the Revised Code. The director may employ an assistant for the 25568
laboratory who shall be a person skilled in chemistry and 25569
bacteriology, and receive compensation as the director determines. 25570
All expenses of the laboratory shall be paid from appropriations 25571
made for the department of health. 25572

(B) The ~~public health council~~ director, in accordance with 25573
Chapter 119. of the Revised Code, shall adopt, and may amend or 25574
rescind, rules establishing reasonable fees for services the 25575
laboratory performs. The ~~council~~ director need not prescribe fees 25576
where the ~~council~~ director believes that charging fees would 25577
significantly and adversely affect the public health. All fees 25578
collected for services the laboratory performs shall be deposited 25579
into the state treasury to the credit of the "laboratory handling 25580
fee fund," which is hereby created for the purpose of defraying 25581
expenses of operating the laboratory. 25582

Sec. 3701.23. (A) As used in this section, "health care 25583
provider" means any person or government entity that provides 25584
health care services to individuals. "Health care provider" 25585
includes, but is not limited to, hospitals, medical clinics and 25586
offices, special care facilities, medical laboratories, 25587
physicians, pharmacists, dentists, physician assistants, 25588
registered and licensed practical nurses, laboratory technicians, 25589
emergency medical service organization personnel, and ambulance 25590
service organization personnel. 25591

(B) Boards of health, health authorities or officials, health 25592
care providers in localities in which there are no health 25593
authorities or officials, and coroners or medical examiners shall 25594
report promptly to the department of health the existence of any 25595
of the following: 25596

(1) Asiatic cholera;	25597
(2) Yellow fever;	25598
(3) Diphtheria;	25599
(4) Typhus or typhoid fever;	25600
(5) As specified by the public <u>director of health council</u> , other contagious or infectious diseases, illnesses, health conditions, or unusual infectious agents or biological toxins posing a risk of human fatality or disability.	25601 25602 25603 25604
(C) No person shall fail to comply with the reporting requirements established under division (B) of this section.	25605 25606
(D) The reports required by this section shall be submitted on forms, as required by statute or rule, and in the manner the director of health prescribes.	25607 25608 25609
(E) Information reported under this section that is protected health information pursuant to section 3701.17 of the Revised Code shall be released only in accordance with that section. Information that does not identify an individual may be released in summary, statistical, or aggregate form.	25610 25611 25612 25613 25614
Sec. 3701.232. (A) As used in this section:	25615
(1) "Bioterrorism" means the intentional use of any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of a microorganism, virus, infectious substance, or biological product, to cause death, disease, or other biological malfunction in a human, animal, plant, or other living organism as a means of influencing the conduct of government or intimidating or coercing a population.	25616 25617 25618 25619 25620 25621 25622 25623 25624
(2) "Pharmacist" means an individual licensed under Chapter	25625

4729. of the Revised Code to engage in the practice of pharmacy as a pharmacist. 25626
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(3) "Pharmacy" and "prescription" have the same meanings as in section 4729.01 of the Revised Code. 25628
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(B) The ~~public~~ director of health ~~council~~ shall adopt rules in accordance with Chapter 119. of the Revised Code under which a pharmacy or pharmacist is required to report significant changes in medication usage that may be caused by bioterrorism, epidemic or pandemic disease, or established or novel infectious agents or biological toxins posing a risk of human fatality or disability. Rules adopted under this section may require a report of any of the following: 25630
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(1) An unexpected increase in the number of prescriptions for antibiotics; 25638
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(2) An unexpected increase in the number of prescriptions for medication to treat fever or respiratory or gastrointestinal complaints; 25640
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(3) An unexpected increase in sales of, or the number of requests for information on, over-the-counter medication to treat fever or respiratory or gastrointestinal complaints; 25643
25644
25645

(4) Any prescription for medication used to treat a disease that is relatively uncommon and may have been caused by bioterrorism. 25646
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(C) No person shall fail to comply with any reporting requirement established in rules adopted under division (B) of this section. 25649
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(D) Information reported under this section that is protected health information pursuant to section 3701.17 of the Revised Code shall be released only in accordance with that section. 25652
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Information that does not identify an individual may be released 25655

in summary, statistical, or aggregate form. 25656

Sec. 3701.24. (A) As used in this section and sections 25657
3701.241 to 3701.249 of the Revised Code: 25658

(1) "AIDS" means the illness designated as acquired 25659
immunodeficiency syndrome. 25660

(2) "HIV" means the human immunodeficiency virus identified 25661
as the causative agent of AIDS. 25662

(3) "AIDS-related condition" means symptoms of illness 25663
related to HIV infection, including AIDS-related complex, that are 25664
confirmed by a positive HIV test. 25665

(4) "HIV test" means any test for the antibody or antigen to 25666
HIV that has been approved by the director of health under 25667
division (B) of section 3701.241 of the Revised Code. 25668

(5) "Health care facility" has the same meaning as in section 25669
1751.01 of the Revised Code. 25670

(6) "Director" means the director of health or any employee 25671
of the department of health acting on the director's behalf. 25672

(7) "Physician" means a person who holds a current, valid 25673
certificate issued under Chapter 4731. of the Revised Code 25674
authorizing the practice of medicine or surgery and osteopathic 25675
medicine and surgery. 25676

(8) "Nurse" means a registered nurse or licensed practical 25677
nurse who holds a license or certificate issued under Chapter 25678
4723. of the Revised Code. 25679

(9) "Anonymous test" means an HIV test administered so that 25680
the individual to be tested can give informed consent to the test 25681
and receive the results by means of a code system that does not 25682
link the identity of the individual tested to the request for the 25683
test or the test results. 25684

(10) "Confidential test" means an HIV test administered so 25685
that the identity of the individual tested is linked to the test 25686
but is held in confidence to the extent provided by sections 25687
3701.24 to 3701.248 of the Revised Code. 25688

(11) "Health care provider" means an individual who provides 25689
diagnostic, evaluative, or treatment services. Pursuant to Chapter 25690
119. of the Revised Code, the ~~public health council~~ director may 25691
adopt rules further defining the scope of the term "health care 25692
provider." 25693

(12) "Significant exposure to body fluids" means a 25694
percutaneous or mucous membrane exposure of an individual to the 25695
blood, semen, vaginal secretions, or spinal, synovial, pleural, 25696
peritoneal, pericardial, or amniotic fluid of another individual. 25697

(13) "Emergency medical services worker" means all of the 25698
following: 25699

(a) A peace officer; 25700

(b) An employee of an emergency medical service organization 25701
as defined in section 4765.01 of the Revised Code; 25702

(c) A firefighter employed by a political subdivision; 25703

(d) A volunteer firefighter, emergency operator, or rescue 25704
operator; 25705

(e) An employee of a private organization that renders rescue 25706
services, emergency medical services, or emergency medical 25707
transportation to accident victims and persons suffering serious 25708
illness or injury. 25709

(14) "Peace officer" has the same meaning as in division (A) 25710
of section 109.71 of the Revised Code, except that it also 25711
includes a sheriff and the superintendent and troopers of the 25712
state highway patrol. 25713

(B) Persons designated by rule adopted by the ~~public health~~ 25714

~~council~~ director under section 3701.241 of the Revised Code shall 25715
report promptly every case of AIDS, every AIDS-related condition, 25716
and every confirmed positive HIV test to the department of health 25717
on forms and in a manner prescribed by the director. In each 25718
county the director shall designate the health commissioner of a 25719
health district in the county to receive the reports. 25720

(C) No person shall fail to comply with the reporting 25721
requirements established under division (B) of this section. 25722

(D) Information reported under this section that identifies 25723
an individual is confidential and may be released only with the 25724
written consent of the individual except as the director 25725
determines necessary to ensure the accuracy of the information, as 25726
necessary to provide treatment to the individual, as ordered by a 25727
court pursuant to section 3701.243 or 3701.247 of the Revised 25728
Code, or pursuant to a search warrant or a subpoena issued by or 25729
at the request of a grand jury, prosecuting attorney, city 25730
director of law or similar chief legal officer of a municipal 25731
corporation, or village solicitor, in connection with a criminal 25732
investigation or prosecution. Information that does not identify 25733
an individual may be released in summary, statistical, or 25734
aggregate form. 25735

Sec. 3701.241. (A) The director of health shall develop and 25736
administer the following: 25737

(1) A surveillance system to determine the number of cases of 25738
AIDS and the HIV infection rate in various population groups; 25739

(2) Counseling and testing programs for groups determined by 25740
the director to be at risk of HIV infection, including procedures 25741
for both confidential and anonymous tests, counseling training 25742
programs for health care providers, and development of counseling 25743
guidelines; 25744

(3) A confidential partner notification system to alert and
counsel sexual contacts of individuals with HIV infection; 25745
25746

(4) Risk reduction and education programs for groups 25747
determined by the director to be at risk of HIV infection, and, in 25748
consultation with a wide range of community leaders, education 25749
programs for the public; 25750

(5) Pilot programs for the long-term care of individuals with 25751
AIDS or AIDS-related condition, including care in nursing homes 25752
and in alternative settings; 25753

(6) Programs to expand regional outpatient treatment of 25754
individuals with AIDS or AIDS-related condition; 25755

(7) A program to assist communities, including communities of 25756
less than one hundred thousand population, in establishing AIDS 25757
task forces and support groups for individuals with AIDS, 25758
AIDS-related condition, and HIV infection. The program may include 25759
the award of grants if they are matched by local funds. 25760

Information obtained or maintained under the partner 25761
notification system is not a public record under section 149.43 of 25762
the Revised Code and may be released only in accordance with 25763
division (C) of section 3701.243 of the Revised Code. 25764

(B) The director shall: 25765

(1) Approve a test or tests to be used to determine whether 25766
an individual has HIV infection, define a confirmed positive test 25767
result, and develop guidelines for interpreting test results; 25768

(2) Establish sites for confidential and anonymous HIV tests, 25769
and prepare a list of sites where an individual may obtain an 25770
anonymous test; 25771

(3) Prepare a list of counseling services; 25772

(4) Make available a copy of the list of anonymous testing 25773
sites or a copy of the list of counseling services to anyone who 25774

requests it. 25775

(C) The director of health shall require the director or 25776
administrator of each site where anonymous or confidential HIV 25777
tests are given to submit a report every three months evaluating 25778
from an epidemiologic perspective the effectiveness of the HIV 25779
testing program at that site. Not later than January 31, 1991, and 25780
each year thereafter, the director of health shall make a report 25781
evaluating the anonymous and confidential testing programs 25782
throughout the state with regard to their effectiveness as 25783
epidemiologic programs. The report shall be submitted to the 25784
speaker of the house of representatives and the president of the 25785
senate and shall be made available to the public. 25786

The ~~public~~ director of health council shall adopt rules 25787
pursuant to Chapter 119. of the Revised Code for the 25788
implementation of the requirements of division (B)(1) of this 25789
section and division (D) of section 3701.24 of the Revised Code. 25790

(D) The director of health shall administer funds received 25791
under Title XXVI of the "Public Health Services Act," 104 Stat. 25792
576 (1990), 42 U.S.C.A. 2601, as amended, for programs to improve 25793
the quality and availability of care for individuals with AIDS, 25794
AIDS-related condition, and HIV infection. In administering these 25795
funds, the director may enter into contracts with any person or 25796
entity for the purpose of administering the programs, including 25797
contracts with the department of job and family services for 25798
establishment of a program of reimbursement of drugs used for 25799
treatment and care of such individuals. The director of health may 25800
adopt rules in accordance with Chapter 119. of the Revised Code 25801
and issue orders as necessary for administration of the funds. If 25802
the department of job and family services enters into a contract 25803
under this division, the director of job and family services may 25804
adopt rules in accordance with Chapter 119. of the Revised Code as 25805
necessary for carrying out the department's duties under the 25806

contract. 25807

Sec. 3701.242. (A) An HIV test may be performed by or on the 25808
order of a health care provider who, in the exercise of the 25809
provider's professional judgment, determines the test to be 25810
necessary for providing diagnosis and treatment to the individual 25811
to be tested, if the individual or the individual's parent or 25812
guardian has given consent to the provider for medical or other 25813
health care treatment. The health care provider shall inform the 25814
individual of the individual's right under division (D) of this 25815
section to an anonymous test. 25816

(B) A minor may consent to be given an HIV test. The consent 25817
is not subject to disaffirmance because of minority. The parents 25818
or guardian of a minor giving consent under this division are not 25819
liable for payment and shall not be charged for an HIV test given 25820
to the minor without the consent of a parent or the guardian. 25821

(C) The health care provider ordering an HIV test shall 25822
provide post-test counseling for an individual who receives an 25823
HIV-positive test result. The ~~public director of health council~~ 25824
may adopt rules, ~~pursuant to recommendations from the director of~~ 25825
~~health and~~ in accordance with Chapter 119. of the Revised Code, 25826
specifying the information to be provided in post-test counseling. 25827

(D) An individual shall have the right to an anonymous test. 25828
A health care facility or health care provider that does not 25829
provide anonymous testing shall refer an individual requesting an 25830
anonymous test to a site where it is available. 25831

(E) Divisions (B) to (D) of this section do not apply to the 25832
performance of an HIV test in any of the following circumstances: 25833

(1) When the test is performed in a medical emergency by a 25834
nurse or physician and the test results are medically necessary to 25835
avoid or minimize an immediate danger to the health or safety of 25836

the individual to be tested or another individual, except that 25837
post-test counseling shall be given to the individual if the 25838
individual receives an HIV-positive test result; 25839

(2) When the test is performed for the purpose of research if 25840
the researcher does not know and cannot determine the identity of 25841
the individual tested; 25842

(3) When the test is performed by a person who procures, 25843
processes, distributes, or uses a human body part from a deceased 25844
person donated for a purpose specified in Chapter 2108. of the 25845
Revised Code, if the test is medically necessary to ensure that 25846
the body part is acceptable for its intended purpose; 25847

(4) When the test is performed on a person incarcerated in a 25848
correctional institution under the control of the department of 25849
rehabilitation and correction if the head of the institution has 25850
determined, based on good cause, that a test is necessary; 25851

(5) When the test is performed in accordance with section 25852
2907.27 of the Revised Code; 25853

(6) When the test is performed on an individual after the 25854
infection control committee of a health care facility, or other 25855
body of a health care facility performing a similar function 25856
determines that a health care provider, emergency medical services 25857
worker, or peace officer, while rendering health or emergency care 25858
to an individual, has sustained a significant exposure to the body 25859
fluids of that individual, and the individual has refused to give 25860
consent for testing. 25861

Sec. 3701.248. (A) As used in this section: 25862

(1) "Contagious or infectious disease" means a disease 25863
specified ~~by rule~~ in rules adopted by the ~~public director of~~ 25864
health ~~council~~ pursuant to division (F) of this section. 25865

(2) "Patient" means either of the following: 25866

(a) A person, whether alive or dead, who has been treated, or handled, or transported for medical care by an emergency medical services worker;	25867 25868 25869
(b) A deceased person whose body is handled by a funeral services worker.	25870 25871
(3) "Significant exposure" means:	25872
(a) A percutaneous or mucous membrane exposure of an individual to the blood, semen, vaginal secretions, or spinal, synovial, pleural, peritoneal, pericardial, or amniotic fluid of another person;	25873 25874 25875 25876
(b) Exposure to a contagious or infectious disease.	25877
(4) "Funeral services worker" means a person licensed as a funeral director or embalmer under Chapter 4717. of the Revised Code or an individual responsible for the direct final disposition of a deceased person.	25878 25879 25880 25881
(B)(1) An emergency medical services worker or funeral services worker who believes that significant exposure has occurred through the worker's contact with a patient may submit to the health care facility or coroner that received the patient a written request to be notified of the results of any test performed on the patient to determine the presence of a contagious or infectious disease. The request shall include:	25882 25883 25884 25885 25886 25887 25888
(a) The name, address, and telephone number of the individual submitting the request;	25889 25890
(b) The name of the individual's employer, or, in the case of a volunteer emergency medical services worker, the entity for which the worker volunteers, and the individual's supervisor;	25891 25892 25893
(c) The date, time, location, and manner of the exposure.	25894
(2) The request for notification that is submitted by an emergency medical services worker pursuant to division (B)(1) of	25895 25896

this section is valid for ten days after it is made. If at the end 25897
of that ten-day period no test has been performed to determine the 25898
presence of a contagious or infectious disease, no diagnosis has 25899
been made, or the result of the test is negative, the health care 25900
facility or coroner shall notify the emergency medical services 25901
worker. The notification shall not include the name of the 25902
patient. If necessary, the request may be renewed in accordance 25903
with the same procedures and requirements as the original request. 25904

(3) A health care facility or coroner shall respond 25905
immediately to a request for notification submitted pursuant to 25906
division (B)(1) of this section by a funeral services worker. If 25907
no test has been performed to determine the presence of a 25908
contagious or infectious disease, no diagnosis has been made, or 25909
the result of a test that was performed is negative, the health 25910
care facility or coroner shall immediately notify the funeral 25911
services worker. The notification shall not include the name of 25912
the patient. 25913

On receipt of notification that no test has been performed to 25914
determine the presence of a contagious or infectious disease in a 25915
patient, the funeral services worker may have a test performed on 25916
the patient. The test shall be performed in accordance with rules 25917
adopted by the department of health pursuant to division (G) of 25918
this section. 25919

The consent of the patient's family is not required for 25920
performance of a test pursuant to division (B)(3) of this section. 25921

(C) The health care facility or coroner that receives a 25922
written request for notification shall give an oral notification 25923
of the presence of a contagious or infectious disease, or of a 25924
confirmed positive test result, if known, to the person who made 25925
the request and the person's supervisor and to the infection 25926
control committee or other body described in division (E)(6) of 25927
section 3701.242 of the Revised Code within two days after 25928

determining the presence of a contagious or infectious disease or 25929
after a confirmed positive test result. A written notification 25930
shall follow oral notification within three days. If a contagious 25931
or infectious disease is present, or the test results are 25932
confirmed positive, both the oral and written notification shall 25933
include the name of the disease, its signs and symptoms, the date 25934
of exposure, the incubation period, the mode of transmission of 25935
the disease, the medical precautions necessary to prevent 25936
transmission to other persons, and the appropriate prophylaxis, 25937
treatment, and counseling for the disease. The notification shall 25938
not include the name of the patient. 25939

If the request is made by an emergency medical services 25940
worker and the information is not available from the health care 25941
facility to which the request is made because the patient has been 25942
transferred from that health care facility, the facility shall 25943
assist the emergency medical services worker in locating the 25944
patient and securing the requested information from the health 25945
care facility that treated or is treating the patient. If the 25946
patient has died, the health care facility shall give the 25947
emergency medical services worker the name and address of the 25948
coroner who received the patient. 25949

(D) Each health care facility and coroner shall develop 25950
written procedures to implement the notification procedures 25951
required by this section. A health care facility or coroner may 25952
take measures in addition to those required in this section to 25953
notify emergency medical services workers and funeral services 25954
workers of possible exposure to a contagious or infectious disease 25955
as long as the confidentiality of the information is maintained. 25956

(E) No person shall knowingly fail to comply with division 25957
(C) of this section. 25958

(F) The ~~public~~ director of health council shall adopt rules 25959
in accordance with Chapter 119. of the Revised Code that specify 25960

the diseases that are reasonably likely to be transmitted by air 25961
or blood during the normal course of duties performed by an 25962
emergency medical services worker or funeral services worker. In 25963
adopting such rules, the ~~council~~ director shall consider the types 25964
of contact that typically occur between patients and emergency 25965
medical services workers and funeral services workers. 25966

(G) The department of health shall adopt rules in accordance 25967
with Chapter 119. of the Revised Code specifying the procedures a 25968
funeral services worker must follow when having a test performed 25969
on a patient pursuant to division (B)(3) of this section. The 25970
rules shall specify how and by whom the test is to be performed. 25971
The rules shall require the funeral services worker or the funeral 25972
services worker's employer to pay the cost of the test. No health 25973
care facility shall be required to perform the test. 25974

Sec. 3701.341. (A) The ~~public director of health council~~, 25975
pursuant to Chapter 119. and consistent with section 2317.56 of 25976
the Revised Code, shall adopt rules relating to abortions and the 25977
following subjects: 25978

(1) Post-abortion procedures to protect the health of the 25979
pregnant woman; 25980

(2) Pathological reports; 25981

(3) Humane disposition of the product of human conception; 25982

(4) Counseling. 25983

(B) The director of health shall implement the rules and 25984
shall apply to the court of common pleas for temporary or 25985
permanent injunctions restraining a violation or threatened 25986
violation of the rules. This action is an additional remedy not 25987
dependent on the adequacy of the remedy at law. 25988

Sec. 3701.342. After consultation with the public health 25989

standards task force established under section 3701.343 of the Revised Code, the ~~public~~ director of health ~~council~~ shall adopt rules establishing minimum standards and optimum achievable standards for boards of health and local health departments. The minimum standards shall assure that boards of health and local health departments provide for:

(A) Analysis and prevention of communicable disease;

(B) Analysis of the causes of, and appropriate treatment for, the leading causes of morbidity and mortality;

(C) The administration and management of the local health department;

(D) Access to primary health care by medically underserved individuals;

(E) Environmental health management programs;

(F) Health promotion services designed to encourage individual and community wellness.

The ~~public health council~~ director shall adopt rules establishing a formula for distribution of state health district subsidy funds to boards of health and local health departments. The formula shall provide no subsidy funds to a board or department unless it meets minimum standards and shall provide higher funding levels for boards and districts that meet optimum achievable standards.

Notwithstanding section 119.03 of the Revised Code, rules adopted under this section shall not take effect unless approved by concurrent resolution of the general assembly.

Sec. 3701.343. The ~~chairman~~ director of the ~~public health council~~ shall, with the advice of the association of Ohio health commissioners ~~and the director of health~~, appoint a public health standards task force to assist and advise the ~~public health~~

~~council director~~ in formulating and evaluating the standards 26020
established under section 3701.342 of the Revised Code for the 26021
provision of public health services. ~~The task force shall~~ 26022
~~recommend its standards for all categories mentioned in section~~ 26023
~~3701.342 of the Revised Code on or before March 1, 1983.~~ 26024

The task force shall have nine members, consisting of: 26025

(A) A sanitarian registered in accordance with Chapter 4736. 26026
of the Revised Code; 26027

(B) A registered nurse licensed in accordance with Chapter 26028
4723. of the Revised Code; 26029

(C) A physician ~~licensed in accordance with~~ who is authorized 26030
under Chapter 4731. of the Revised Code to practice medicine and 26031
surgery or osteopathic medicine and surgery; 26032

(D) Three health commissioners; 26033

(E) Two representatives of the department of health; 26034

(F) One individual with recognized ability in public health 26035
law, public health laboratories, epidemiology, nutrition, or 26036
health education. 26037

~~The public health standards task force shall complete its~~ 26038
~~work within three years after the effective date of this section~~ 26039
~~and shall cease to exist upon completion of its work, provided,~~ 26040
~~that the public health council may reconstitute the public health~~ 26041
~~standards task force, for the purpose of reviewing, evaluating,~~ 26042
~~and revising the standards mandated in section 3701.342 of the~~ 26043
~~Revised Code.~~ 26044

Members of the task force shall elect a ~~chairman~~ chairperson. 26045
Five members of the task force constitute a quorum and six votes 26046
are necessary to validate an action. 26047

~~Within ninety days of the effective date of this section, the~~ 26048
~~chairman of the public health council shall make the appointments~~ 26049

~~to the task force. Within sixty days of their appointment, the~~ 26050
~~task force members shall meet, organize, and begin their work.~~ 26051
Vacancies occurring on the task force shall be filled in the same 26052
manner as the initial appointments. 26053

Members of the task force shall serve without compensation, 26054
but may be reimbursed for necessary expenses. 26055

Sec. 3701.344. As used in this section and sections 3701.345, 26056
3701.346, and 3701.347 of the Revised Code: 26057

(A) "Private water system" means any water system for the 26058
provision of water for human consumption, if such system has fewer 26059
than fifteen service connections and does not regularly serve an 26060
average of at least twenty-five individuals daily at least sixty 26061
days out of the year. A private water system includes any well, 26062
spring, cistern, pond, or hauled water and any equipment for the 26063
collection, transportation, filtration, disinfection, treatment, 26064
or storage of such water extending from and including the source 26065
of the water to the point of discharge from any pressure tank or 26066
other storage vessel; to the point of discharge from the water 26067
pump where no pressure tank or other storage vessel is present; 26068
or, in the case of multiple service connections serving more than 26069
one dwelling, to the point of discharge from each service 26070
connection. "Private water system" does not include the water 26071
service line extending from the point of discharge to a structure. 26072

(B) Notwithstanding section 3701.347 of the Revised Code and 26073
subject to division (C) of this section, rules adopted by the 26074
~~public director of health council~~ regarding private water systems 26075
shall provide for the following: 26076

(1) Except as otherwise provided in this division, boards of 26077
health of city or general health districts shall be given the 26078
exclusive power to establish fees in accordance with section 26079
3709.09 of the Revised Code for administering and enforcing such 26080

rules. Such fees shall establish a different rate for 26081
administering and enforcing the rules relative to private water 26082
systems serving single-family dwelling houses and nonsingle-family 26083
dwelling houses. Except for an amount established by the ~~public~~ 26084
~~health council~~ director, pursuant to division (B)(5) of this 26085
section, for each new private water system installation, no 26086
portion of any fee for administering and enforcing such rules 26087
shall be returned to the department of health. If the director of 26088
health determines that a board of health of a city or general 26089
health district is unable to administer and enforce a private 26090
water system program in the district, the director shall 26091
administer and enforce such a program in the district and 26092
establish fees for such administration and enforcement. 26093

(2) Boards of health of city or general health districts 26094
shall be given the exclusive power to determine the number of 26095
inspections necessary for determining the safe drinking 26096
characteristics of a private water system. 26097

(3) Private water systems contractors, as a condition of 26098
doing business in this state, shall annually register with, and 26099
comply with surety bonding requirements of, the department of 26100
health. No such contractor shall be permitted to register if the 26101
contractor fails to comply with all applicable rules adopted by 26102
the ~~public health council~~ director and the board of health of the 26103
city or general health district. The annual registration fee for 26104
private water systems contractors shall be sixty-five dollars. The 26105
~~public health council~~ director, by rule adopted in accordance with 26106
Chapter 119. of the Revised Code, may increase the annual 26107
registration fee. ~~Before January 1, 1993, the fee shall not be~~ 26108
~~increased by more than fifty per cent of the amount prescribed by~~ 26109
~~this section.~~ 26110

(4) ~~Boards~~ Subject to rules adopted by the director, boards 26111
of health of city or general health districts ~~subject to such~~ 26112

~~rules of the public health council~~ shall have the option of 26113
determining whether bacteriological examinations shall be 26114
performed at approved laboratories of the state or at approved 26115
private laboratories. 26116

(5) The ~~public health council~~ director may establish fees for 26117
each new private water system installation, which shall be 26118
collected by the appropriate board of health and transmitted to 26119
the director ~~of health~~ pursuant to section 3709.092 of the Revised 26120
Code. 26121

(6) All fees received by the director of health under 26122
divisions (B)(1), (3), and (5) of this section shall be deposited 26123
in the state treasury to the credit of the general operations fund 26124
created in section 3701.83 of the Revised Code for use in the 26125
administration and enforcement of sections 3701.344 to 3701.347 of 26126
the Revised Code and the rules pertaining to private water systems 26127
adopted under those sections ~~or section 3701.34 of the Revised~~ 26128
Code. 26129

(C) To the extent that rules adopted under division (B) of 26130
this section require health districts to follow specific 26131
procedures or use prescribed forms, no such procedure or form 26132
shall be implemented until it is approved by majority vote of an 26133
approval board of health commissioners, hereby created. Members of 26134
the board shall be the officers of the association of Ohio health 26135
commissioners, or any successor organization, and membership on 26136
the board shall be coterminous with holding an office of the 26137
association. No health district is required to follow a procedure 26138
or use a form required by a rule adopted under division (B) of 26139
this section without the approval of the board. 26140

(D) A board of health shall collect well log filing fees on 26141
behalf of the division of soil and water resources in the 26142
department of natural resources in accordance with section 1521.05 26143
of the Revised Code and rules adopted under it. The fees shall be 26144

submitted to the division quarterly as provided in those rules. 26145

Sec. 3701.345. Any applicant for a permit to construct, 26146
develop, install, or modify a private water system required by 26147
rules adopted by the ~~public director of health council~~ under 26148
~~sections 3701.34 and~~ section 3701.347 of the Revised Code may 26149
apply to the board of health of the city or general health 26150
district administering and enforcing the private water supply 26151
program in the health district in which the private water system 26152
is or is to be located or, if the health district is not 26153
administering and enforcing the program, may apply to the 26154
department of health for a variance from such rules governing the 26155
design, construction, development, installation, or modification 26156
of private water systems. The application for a variance shall be 26157
made in writing and shall include a statement of the particular 26158
rule or rules from which a variance is sought, a description of 26159
the proposed system or modification, and the necessity for the 26160
variance. The board of health or the department of health shall 26161
not grant a variance unless the applicant demonstrates that: 26162

(A) There will be an unusual and unnecessary hardship in 26163
complying with the rules from which the variance is sought; 26164

(B) Contamination of the private water system will not occur 26165
as a result of construction and operation of the system as 26166
proposed by the variance application; 26167

(C) The health of persons using water from the private water 26168
system will not be endangered as a result of construction and 26169
operation of the system as proposed by the variance application; 26170
and 26171

(D) No other technically feasible and economically reasonable 26172
means exist for obtaining water from the proposed type of water 26173
source. 26174

Sec. 3701.347. Notwithstanding division (E) of section 26175
6111.42 of the Revised Code, rules adopted under such division and 26176
in effect on December 14, 1978, shall continue in effect until 26177
repealed by the environmental protection agency or superseded by 26178
rules ~~of~~ adopted by the public director of health council as 26179
hereinafter provided, as fully as if such section had not been 26180
amended by Amended Substitute Senate Bill No. 445 of the 112th 26181
general assembly on such date. Insofar as these rules affect wells 26182
for the provision of water for human consumption not used or for 26183
use by a public water system, they shall remain in effect 26184
notwithstanding repeal by the environmental protection agency 26185
until the ~~public health council~~ director adopts rules superseding 26186
them which prescribe uniform standards and procedures for the 26187
design, construction, inspection, installation, development, 26188
maintenance, and abandonment of private water systems, to protect 26189
the health of the persons served by such water systems and to 26190
establish fees at a level calculated to pay the cost of 26191
administering and enforcing such rules by the director ~~health~~ or 26192
by boards of health of city and general health districts approved 26193
by the director of health. For purposes of this section "public 26194
water system" has the meaning ascribed to it in section 6109.01 of 26195
the Revised Code. 26196

Sec. 3701.352. No person shall violate any rule the ~~public~~ 26197
~~health council~~, director of health, or department of health adopts 26198
or any order the director or department of health issues under 26199
this chapter to prevent a threat to the public caused by a 26200
pandemic, epidemic, or bioterrorism event. 26201

Sec. 3701.40. The ~~public~~ director of health council shall by 26202
rule prescribe minimum standards for the maintenance and operation 26203
of hospitals and medical facilities which shall receive federal 26204

aid for construction under the state plan provided for by section 26205
3701.39 of the Revised Code. 26206

Boards of trustees or directors of institutions required to 26207
comply with sections 3701.01, 3701.04, 3701.08, 3701.09, and 26208
3701.37 to 3701.45 of the Revised Code shall have the right to 26209
select the professional staff members of such institutions and to 26210
select and employ interns, nurses, and other personnel, and no 26211
rules, regulations, or standards of the director of health ~~or the~~ 26212
~~public health council~~ adopted or promulgated severally or jointly 26213
shall be valid which, if enforced, would interfere in such 26214
selection or employment. 26215

The director of health may petition the common pleas court of 26216
the county in which any hospital or medical facility is located 26217
for an order enjoining any person, firm, partnership, association, 26218
corporation, or other entity, private or public, from operating a 26219
hospital or medical facility in violation of any rules adopted 26220
under this section. Irrespective of any other remedy the director 26221
may have in law or equity the court has jurisdiction to grant such 26222
injunctive relief upon a showing that the respondent named in the 26223
petition is operating in violation of such rules. 26224

Sec. 3701.503. As used in sections 3701.504 to 3701.509 of 26225
the Revised Code: 26226

(A) "Parent" means either parent, unless the parents are 26227
separated or divorced or their marriage has been dissolved or 26228
annulled, in which case "parent" means the parent who is the 26229
residential parent and legal custodian. 26230

(B) "Guardian" has the same meaning as in section 2111.01 of 26231
the Revised Code. 26232

(C) "Custodian" means, except as used in division (A) of this 26233
section, a government agency or an individual, other than the 26234

parent or guardian, with legal or permanent custody of a child as defined in section 2151.011 of the Revised Code. 26235
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(D) "Hearing screening" means the identification of newborns and infants who may have a hearing impairment, through the use of a physiologic test. 26237
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(E) "Hearing evaluation" means evaluation through the use of audiological procedures by an audiologist or physician. 26240
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(F) "Hearing impairment" means a loss of hearing in one or both ears in the frequency region important for speech recognition and comprehension. 26242
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(G) "Newborn" means a child who is less than thirty days old. 26245

(H) "Infant" means a child who is at least thirty days but less than twenty-four months old. 26246
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(I) "Freestanding birthing center" has the same meaning as in section ~~3702.51~~ 3702.141 of the Revised Code. 26248
26249

(J) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery. 26250
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(K) "Audiologist" means an individual authorized under section 4753.07 of the Revised Code to practice audiology. 26253
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(L) "Hospital" means a hospital that has a maternity unit or newborn nursery. 26255
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(M) "Maternity unit" means any unit or place in a hospital where women are regularly received and provided care during all or part of the maternity cycle, except that "maternity unit" does not include an emergency department or similar place dedicated to providing emergency health care. 26257
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(N) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code. 26262
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Sec. 3701.507. (A) To assist in implementing sections	26265
3701.503 to 3701.509 of the Revised Code, the medically	26266
handicapped children's medical advisory council created in section	26267
3701.025 of the Revised Code shall appoint a permanent infant	26268
hearing screening subcommittee. The subcommittee shall consist of	26269
the following members:	26270
(1) One otolaryngologist;	26271
(2) One neonatologist;	26272
(3) One pediatrician;	26273
(4) One neurologist;	26274
(5) One hospital administrator;	26275
(6) Two or more audiologists who are experienced in infant	26276
hearing screening and evaluation;	26277
(7) One speech-language pathologist licensed under section	26278
4753.07 of the Revised Code;	26279
(8) Two persons who are each a parent of a hearing-impaired	26280
child;	26281
(9) One geneticist;	26282
(10) One epidemiologist;	26283
(11) One adult who is deaf or hearing impaired;	26284
(12) One representative from an organization for the deaf or	26285
hearing impaired;	26286
(13) One family advocate;	26287
(14) One nurse from a well-baby neonatal nursery;	26288
(15) One nurse from a special care neonatal nursery;	26289
(16) One teacher of the deaf who works with infants and	26290
toddlers;	26291

(17) One representative of the health insurance industry;	26292
(18) One representative of the bureau for children with medical handicaps;	26293 26294
(19) One representative of the department of education;	26295
(20) One representative of the Ohio department of job and family services who has responsibilities regarding medicaid;	26296 26297
(21) Any other person the advisory council appoints.	26298
(B) The infant hearing subcommittee shall:	26299
(1) Consult with the director of health regarding the administration of sections 3701.503 to 3701.509 of the Revised Code;	26300 26301 26302
(2) Advise and make recommendations regarding proposed rules prior to their adoption by the public health council <u>director</u> under section 3701.508 of the Revised Code;	26303 26304 26305
(3) Consult with the director of health and advise and make recommendations regarding program development and implementation under sections 3701.503 to 3701.509 of the Revised Code, including all of the following:	26306 26307 26308 26309
(a) Establishment under section 3701.504 of the Revised Code of the statewide hearing screening, tracking, and early intervention program to identify newborn and infant hearing impairment;	26310 26311 26312 26313
(b) Identification of locations where hearing evaluations may be conducted;	26314 26315
(c) Recommendations for methods and techniques of hearing screening and hearing evaluation;	26316 26317
(d) Referral, data recording and compilation, and procedures to encourage follow-up hearing care;	26318 26319
(e) Maintenance of a register of newborns and infants who do	26320

not pass the hearing screening; 26321

(f) Preparation of the information required by section 26322
3701.506 of the Revised Code ~~and any other information the public~~ 26323
~~health council requires the department of health to provide.~~ 26324

Sec. 3701.508. (A) The ~~public director of health council~~ 26325
shall adopt rules governing the statewide hearing screening, 26326
tracking, and early intervention program established under section 26327
3701.504 of the Revised Code, including rules that do all of the 26328
following: 26329

(1) Specify how hospitals and freestanding birthing centers 26330
are to comply with the requirements of section 3701.505 of the 26331
Revised Code, including methods to be used for hearing screening, 26332
except that with regard to the physiologic equipment to be used 26333
for hearing screening, the rules may require only that the 26334
equipment be capable of giving reliable results and may not 26335
specify particular equipment or a particular type of equipment; 26336

(2) Provide that no newborn or infant shall be required to 26337
undergo a hearing screening if the parent, guardian, or custodian 26338
of the newborn or infant objects on the grounds that the screening 26339
conflicts with the parent's, guardian's, or custodian's religious 26340
tenets and practices; 26341

(3) Provide for situations in which the parent, guardian, or 26342
custodian of a newborn or infant objects to a hearing screening 26343
for reasons other than religious tenets and practices; 26344

(4) Specify how the department of health will determine 26345
whether a person is financially unable to pay for a hearing 26346
screening and define "third-party payer" for the purpose of 26347
reimbursement of hearing screening by the department under section 26348
3701.505 of the Revised Code; 26349

(5) Specify an inexpensive and efficient format and 26350

procedures for the submission of hearing screening information 26351
from hospitals and freestanding birthing centers to the department 26352
of health; 26353

(6) Specify a procedure whereby the department may conduct 26354
timely reviews of hearing screening information submissions for 26355
purposes of quality assurance, training, and disease prevention 26356
and control; 26357

(7) Specify any additional information that hospitals and 26358
freestanding birthing centers are to provide to the medically 26359
handicapped children's medical advisory council's infant hearing 26360
screening subcommittee under section 3701.509 of the Revised Code. 26361

(B) In addition to the rules adopted under division (A) of 26362
this section, the ~~council~~ director shall adopt rules that specify 26363
the training that must be completed by persons who will conduct 26364
hearing screenings. In adopting these rules, the ~~council~~ director 26365
shall consider incorporating cost-saving training methods, 26366
including computer-assisted learning and on-site training. Neither 26367
the rules nor the director of health may establish a minimum 26368
educational level for persons conducting hearing screenings. 26369

(C) All rules adopted under this section shall be adopted in 26370
accordance with Chapter 119. of the Revised Code and shall be 26371
adopted so as to take effect not later than six months after ~~the~~ 26372
~~effective date of this section~~ August 1, 2002. 26373

Sec. 3701.509. (A) The department of health shall develop a 26374
mechanism to analyze and interpret the hearing screening 26375
information to be reported under division (B) of this section. The 26376
department shall notify all hospitals and freestanding birthing 26377
centers subject to the reporting requirements of the date the 26378
department anticipates that the mechanism will be complete. After 26379
the mechanism is complete, the department shall notify each 26380
hospital and freestanding birthing center subject to the reporting 26381

requirement of the date by which the hospital or center must 26382
submit its first report. 26383

(B) Subject to division (A) of this section and in accordance 26384
with rules adopted by the ~~public~~ director of health council under 26385
section 3701.508 of the Revised Code, each hospital and 26386
freestanding birthing center that has conducted a hearing 26387
screening required by section 3701.505 of the Revised Code shall 26388
provide to the department of health for use by the medically 26389
handicapped children's medical advisory council's infant hearing 26390
screening subcommittee information specifying all of the 26391
following: 26392

(1) The number of newborns born in the hospital or 26393
freestanding birthing center and the number of newborns and 26394
infants not screened because they were transferred to another 26395
hospital; 26396

(2) The number of newborns and infants referred to the 26397
hospital or freestanding birthing center for a hearing screening 26398
and the number of those newborns and infants who received a 26399
hearing screening; 26400

(3) The number of newborns and infants who did not pass the 26401
hearing screenings conducted by the hospital or freestanding 26402
birthing center; 26403

(4) Any other information concerning the program established 26404
under section 3701.504 of the Revised Code. 26405

(C) The department of health shall conduct a timely review of 26406
the information submitted by hospitals and freestanding birthing 26407
centers in accordance with rules adopted by the ~~public health~~ 26408
~~council~~ director under section 3701.508 of the Revised Code. 26409

(D) The infant hearing screening subcommittee, with the 26410
support of the department of health, shall compile and summarize 26411

the information submitted to the department by hospitals and 26412
freestanding birthing centers under division (B) of this section. 26413
Beginning with the first year after the mechanism developed under 26414
division (A) of this section is complete, the subcommittee shall 26415
annually prepare and transmit a report to the director of health, 26416
the speaker of the house of representatives, and the president of 26417
the senate. The council shall make the report available to the 26418
public. 26419

(E) The department and all members of the subcommittee shall 26420
maintain the confidentiality of patient-identifying information 26421
submitted under division (B) of this section and section 3701.505 26422
of the Revised Code. The information is not a public record under 26423
section 149.43 of the Revised Code, except to the extent that the 26424
information is used in preparing reports under this section. 26425

Nothing in this division prohibits the department from 26426
providing patient-identifying information to other entities as it 26427
considers necessary to implement the statewide tracking and early 26428
intervention components of the program established under section 26429
3701.504 of the Revised Code. Any entity that receives 26430
patient-identifying information from the department shall maintain 26431
the confidentiality of the information. 26432

Sec. 3701.57. All prosecutions and proceedings by the 26433
department of health for the violation of sections 3701.01 to 26434
3701.56, 3705.01 to 3705.29, 3707.06, 3709.01 to 3709.04, 3709.07 26435
to 3709.11, 3709.13, 3709.17, 3709.18, and 3709.21 to 3709.36 of 26436
the Revised Code, or for the violation of any of the orders or 26437
rules of the department, shall be instituted by the director of 26438
health. Except as provided in division (C) of section 3701.571 of 26439
the Revised Code, all fines or judgments the department collects 26440
shall be paid into the state treasury to the credit of the general 26441
revenue fund. 26442

The director of health, the board of health of a general or 26443
city health district, or any person charged with enforcing the 26444
rules of the department of health as provided in section 3701.56 26445
of the Revised Code may petition the court of common pleas for 26446
injunctive or other appropriate relief requiring any person 26447
violating a rule adopted by ~~the public health council under~~ 26448
~~section 3701.34 of the Revised Code~~ or any order issued by the 26449
director of health under this chapter to comply with such rule or 26450
order. The court of common pleas of the county in which the 26451
offense is alleged to be occurring may grant such injunctive or 26452
other appropriate relief as the equities of the case require. 26453

Sec. 3701.63. (A) As used in this section and section 3701.64 26454
of the Revised Code: 26455

(1) "Child day-care center," "type A family day-care home," 26456
and "certified type B family day-care home" have the same meanings 26457
as in section 5104.01 of the Revised Code. 26458

(2) "Child care facility" means a child day-care center, a 26459
type A family day-care home, or a certified type B family day-care 26460
home. 26461

(3) "Freestanding birthing center" has the same meaning as in 26462
section ~~3702.51~~ 3702.141 of the Revised Code. 26463

(4) "Hospital" means a hospital classified pursuant to rules 26464
adopted under section 3701.07 of the Revised Code as a general 26465
hospital or children's hospital. 26466

(5) "Maternity unit" means any unit or place in a hospital 26467
where women are regularly received and provided care during all or 26468
part of the maternity cycle, except that "maternity unit" does not 26469
include an emergency department or similar place dedicated to 26470
providing emergency health care. 26471

(6) "Parent" means either parent, unless the parents are 26472

separated or divorced or their marriage has been dissolved or 26473
annulled, in which case "parent" means the parent who is the 26474
residential parent and legal custodian of the child. "Parent" also 26475
means a prospective adoptive parent with whom a child is placed. 26476

(7) "Shaken Baby Syndrome" means signs and symptoms, 26477
including, but not limited to, retinal hemorrhages in one or both 26478
eyes, subdural hematoma, or brain swelling, resulting from the 26479
violent shaking or the shaking and impacting of the head of an 26480
infant or small child. 26481

(B) The director of health shall establish the shaken baby 26482
syndrome education program by doing all of the following: 26483

(1) By not later than one year after February 29, 2008, 26484
developing educational materials that present readily 26485
comprehensible information on shaken baby syndrome; 26486

(2) Making available on the department of health web site in 26487
an easily accessible format the educational materials developed 26488
under division (B)(1) of this section; 26489

(3) Beginning in 2009, annually assessing the effectiveness 26490
of the shaken baby syndrome education program by evaluating the 26491
reports received pursuant to section 5101.135 of the Revised Code. 26492

(C) In meeting the requirements under division (B) of this 26493
section, the director shall not develop educational materials that 26494
will impose an administrative or financial burden on any of the 26495
entities or persons listed in section 3701.64 of the Revised Code. 26496

Sec. 3701.74. (A) As used in this section and section 26497
3701.741 of the Revised Code: 26498

(1) "Ambulatory care facility" means a facility that provides 26499
medical, diagnostic, or surgical treatment to patients who do not 26500
require hospitalization, including a dialysis center, ambulatory 26501
surgical facility, cardiac catheterization facility, diagnostic 26502

imaging center, extracorporeal shock wave lithotripsy center, home 26503
health agency, inpatient hospice, birthing center, radiation 26504
therapy center, emergency facility, and an urgent care center. 26505
"Ambulatory care facility" does not include the private office of 26506
a physician or dentist, whether the office is for an individual or 26507
group practice. 26508

(2) "Chiropractor" means an individual licensed under Chapter 26509
4734. of the Revised Code to practice chiropractic. 26510

(3) "Emergency facility" means a hospital emergency 26511
department or any other facility that provides emergency medical 26512
services. 26513

(4) "Health care practitioner" means all of the following: 26514

(a) A dentist or dental hygienist licensed under Chapter 26515
4715. of the Revised Code; 26516

(b) A registered or licensed practical nurse licensed under 26517
Chapter 4723. of the Revised Code; 26518

(c) An optometrist licensed under Chapter 4725. of the 26519
Revised Code; 26520

(d) A dispensing optician, spectacle dispensing optician, 26521
contact lens dispensing optician, or spectacle-contact lens 26522
dispensing optician licensed under Chapter 4725. of the Revised 26523
Code; 26524

(e) A pharmacist licensed under Chapter 4729. of the Revised 26525
Code; 26526

(f) A physician; 26527

(g) A physician assistant authorized under Chapter 4730. of 26528
the Revised Code to practice as a physician assistant; 26529

(h) A practitioner of a limited branch of medicine issued a 26530
certificate under Chapter 4731. of the Revised Code; 26531

(i) A psychologist licensed under Chapter 4732. of the Revised Code;	26532 26533
(j) A chiropractor;	26534
(k) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;	26535 26536
(l) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;	26537 26538
(m) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;	26539 26540
(n) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;	26541 26542
(o) A professional clinical counselor, professional counselor, social worker, or independent social worker licensed, or a social work assistant registered, under Chapter 4757. of the Revised Code;	26543 26544 26545 26546
(p) A dietitian licensed under Chapter 4759. of the Revised Code;	26547 26548
(q) A respiratory care professional licensed under Chapter 4761. of the Revised Code;	26549 26550
(r) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code.	26551 26552 26553
(5) "Health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.	26554 26555 26556
(6) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.	26557 26558
(7) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms	26559 26560

are defined in section 3721.01 of the Revised Code; ~~an adult care~~ 26561
~~a residential facility, as defined in licensed under~~ 26562
~~5119.70 5119.22~~ of the Revised Code that provides accommodations, 26563
supervision, and personal care services for three to sixteen 26564
unrelated adults; a nursing facility or intermediate care facility 26565
for the mentally retarded, as those terms are defined in section 26566
5111.20 of the Revised Code; a facility or portion of a facility 26567
certified as a skilled nursing facility under Title XVIII of the 26568
"Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as 26569
amended. 26570

(8) "Medical record" means data in any form that pertains to 26571
a patient's medical history, diagnosis, prognosis, or medical 26572
condition and that is generated and maintained by a health care 26573
provider in the process of the patient's health care treatment. 26574

(9) "Medical records company" means a person who stores, 26575
locates, or copies medical records for a health care provider, or 26576
is compensated for doing so by a health care provider, and charges 26577
a fee for providing medical records to a patient or patient's 26578
representative. 26579

(10) "Patient" means either of the following: 26580

(a) An individual who received health care treatment from a 26581
health care provider; 26582

(b) A guardian, as defined in section 1337.11 of the Revised 26583
Code, of an individual described in division (A)(10)(a) of this 26584
section. 26585

(11) "Patient's personal representative" means a minor 26586
patient's parent or other person acting in loco parentis, a 26587
court-appointed guardian, or a person with durable power of 26588
attorney for health care for a patient, the executor or 26589
administrator of the patient's estate, or the person responsible 26590
for the patient's estate if it is not to be probated. "Patient's 26591

personal representative" does not include an insurer authorized 26592
under Title XXXIX of the Revised Code to do the business of 26593
sickness and accident insurance in this state, a health insuring 26594
corporation holding a certificate of authority under Chapter 1751. 26595
of the Revised Code, or any other person not named in this 26596
division. 26597

(12) "Pharmacy" has the same meaning as in section 4729.01 of 26598
the Revised Code. 26599

(13) "Physician" means a person authorized under Chapter 26600
4731. of the Revised Code to practice medicine and surgery, 26601
osteopathic medicine and surgery, or podiatric medicine and 26602
surgery. 26603

(14) "Authorized person" means a person to whom a patient has 26604
given written authorization to act on the patient's behalf 26605
regarding the patient's medical record. 26606

(B) A patient, a patient's personal representative or an 26607
authorized person who wishes to examine or obtain a copy of part 26608
or all of a medical record shall submit to the health care 26609
provider a written request signed by the patient, personal 26610
representative, or authorized person dated not more than one year 26611
before the date on which it is submitted. The request shall 26612
indicate whether the copy is to be sent to the requestor, 26613
physician or chiropractor, or held for the requestor at the office 26614
of the health care provider. Within a reasonable time after 26615
receiving a request that meets the requirements of this division 26616
and includes sufficient information to identify the record 26617
requested, a health care provider that has the patient's medical 26618
records shall permit the patient to examine the record during 26619
regular business hours without charge or, on request, shall 26620
provide a copy of the record in accordance with section 3701.741 26621
of the Revised Code, except that if a physician or chiropractor 26622
who has treated the patient determines for clearly stated 26623

treatment reasons that disclosure of the requested record is 26624
likely to have an adverse effect on the patient, the health care 26625
provider shall provide the record to a physician or chiropractor 26626
designated by the patient. The health care provider shall take 26627
reasonable steps to establish the identity of the person making 26628
the request to examine or obtain a copy of the patient's record. 26629

(C) If a health care provider fails to furnish a medical 26630
record as required by division (B) of this section, the patient, 26631
personal representative, or authorized person who requested the 26632
record may bring a civil action to enforce the patient's right of 26633
access to the record. 26634

(D)(1) This section does not apply to medical records whose 26635
release is covered by section 173.20 or 3721.13 of the Revised 26636
Code, by Chapter 1347. or 5122. of the Revised Code, by 42 C.F.R. 26637
part 2, "Confidentiality of Alcohol and Drug Abuse Patient 26638
Records," or by 42 C.F.R. 483.10. 26639

(2) Nothing in this section is intended to supersede the 26640
confidentiality provisions of sections 2305.24, 2305.25, 2305.251, 26641
and 2305.252 of the Revised Code. 26642

Sec. 3701.77. (A) The department of health may establish, 26643
promote, and maintain a lupus education and awareness program with 26644
an emphasis on at-risk communities to raise public awareness, 26645
educate consumers, and educate and train health professionals, 26646
human services providers, and other audiences. 26647

(B) The department, in creating and implementing the program, 26648
may do all of the following: 26649

(1) Provide sufficient staff and appropriate training to 26650
implement the program; 26651

(2) Establish a grant program to support nonprofit voluntary 26652
health organizations with expertise in lupus to increase public 26653

<u>awareness and enhance health professional education and</u>	26654
<u>understanding of the symptoms and consequences of lupus and the</u>	26655
<u>populations most at risk;</u>	26656
<u>(3) Establish an intergovernmental council and advisory panel</u>	26657
<u>to oversee the implementation of the program;</u>	26658
<u>(4) Identify the appropriate entities to carry out the</u>	26659
<u>program;</u>	26660
<u>(5) Base the program on the most current scientific</u>	26661
<u>information and findings;</u>	26662
<u>(6) Work with government entities, community and business</u>	26663
<u>leaders, community organizations, health and human services</u>	26664
<u>providers, and national, state, and local lupus organizations,</u>	26665
<u>such as the lupus foundation of America, inc., to coordinate</u>	26666
<u>efforts to maximize state resources in the areas of lupus</u>	26667
<u>education and awareness;</u>	26668
<u>(7) Identify and use other successful lupus education and</u>	26669
<u>awareness programs and procure related materials and services from</u>	26670
<u>organizations with appropriate expertise and knowledge of lupus.</u>	26671
<u>(C) The department may accept gifts, grants, and donations</u>	26672
<u>from the federal government, foundations, organizations, medical</u>	26673
<u>schools, and other entities for fulfilling the obligations of the</u>	26674
<u>program.</u>	26675
<u>(D) The department may seek any federal waiver that may be</u>	26676
<u>necessary to maximize funds from the federal government to</u>	26677
<u>implement the program.</u>	26678
<u>Sec. 3701.771. (A)(1) The department of health may conduct a</u>	26679
<u>needs assessment to identify all of the following:</u>	26680
<u>(a) The level of statewide health professional and public</u>	26681
<u>awareness about lupus;</u>	26682

(b) The existence of lupus education, awareness, and treatment programs and related technical assistance available in the state and nationwide; 26683
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(c) The lupus-related educational and support service needs of health care providers in the state, including physicians, nurses, health plans, and other health professionals and health care entities; 26686
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(d) The needs of people with lupus, their families, and caregivers, including health care providers, physicians, nurses, health plans, and other health professionals and health care entities; 26690
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(e) The services available to individuals with lupus, including the existence and availability of lupus treatment and specialty care, lupus support groups, and other related care and management services. 26694
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(2) Based on the needs assessment, the department may develop and maintain a directory of lupus-related services and health care providers with specialization in services to diagnose and treat lupus. The department may disseminate the directory to all stakeholders, including individuals with lupus, families, representatives from voluntary organizations, health professionals, health plans, and state and local health agencies. 26698
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(B) The department may undertake activities to raise public awareness about the symptoms of lupus, personal risk factors, and options for diagnosing and treating the disease with a particular focus on populations at elevated risk for lupus. Such activities may include, but are not limited to, the following: 26705
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(1) Implementing a statewide campaign to educate the general public about lupus by utilizing print, radio, and television public service announcements, advertisements, posters, and other materials; 26710
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(2) Disseminating health information and conducting individual risk assessments at public events, such as health fairs and community forums sponsored by the department; 26714
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(3) Distributing information through local health departments; schools; area agencies on aging; employer wellness programs; physicians and other health professionals; hospitals and health plans; health, nonprofit, and community-based organizations; and regional offices of the department. 26717
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Sec. 3701.772. (A) The department of health may establish a program to award grants to educate and train physicians, health professionals, and other service providers on the most current, accurate scientific and medical information on lupus diagnosis, treatment, and therapeutic decision-making, including medical best practices for detecting and treating the disease in special populations, risks and benefits of medications, and research advances. If a program to award grants is established, the department shall allocate the total amount available for the grants in amounts that are proportionate to the populations of the areas served by the Ohio chapters of the lupus foundation of America, inc. 26722
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To be eligible for a grant, an applicant must be affiliated with the foundation. 26734
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(B) Each grant recipient shall do all of the following: 26736

(1) Develop health professional educational materials that identify the latest scientific and medical information and clinical applications; 26737
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(2) Work to increase knowledge among physicians, nurses, and other health and human services professionals about the importance of lupus diagnosis, treatment, and rehabilitation; 26740
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(3) Use available curricula for training of health and human 26743

<u>services providers and community leaders on lupus detection and treatment;</u>	26744
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<u>(4) Support continuing medical education programs in all geographical areas of the state presented by the leading state academic institutions by providing the most current information;</u>	26746
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<u>(5) Provide workshops and seminars for in-depth professional development in the field of care and management of lupus patients to bring the latest information on clinical advances to health care providers;</u>	26749
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<u>(6) Conduct statewide conferences on lupus at appropriate intervals;</u>	26753
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<u>(7) Prepare an annual report that describes the recipient's use of the grant and submit a copy of the report to the department.</u>	26755
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<u>Sec. 3701.773. (A) If the department of health establishes the intergovernmental council as permitted by division (B)(3) of section 3701.77 of the Revised Code, the department shall seek to ensure coordination of lupus education and awareness efforts. The director of health shall serve as the council's chairperson. The council shall include representatives from appropriate state departments and agencies, including entities with responsibility for health disparities, medicaid, public health programs, education, and public welfare.</u>	26758
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<u>(B) The council shall do all of the following:</u>	26767
<u>(1) Provide oversight to the lupus education and awareness program, as well as other lupus programs conducted by the department;</u>	26768
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<u>(2) Develop and issue grant applications and policies and procedures for programs aimed at health professionals and the public;</u>	26771
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<u>(3) Establish a mechanism for sharing information on lupus among all officials and employees involved in carrying out lupus-related programs;</u>	26774
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<u>(4) Assist the department and other offices in developing and coordinating plans for education and health promotion on lupus and ensure that issues related to lupus are integrated into other statewide plans;</u>	26777
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<u>(5) Prepare an annual report that describes educational initiatives on lupus sponsored by the state and make recommendations for new educational initiatives on lupus. The report shall be transmitted to the general assembly and be made available to the public.</u>	26781
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<u>Sec. 3701.774. (A) If the department of health establishes the advisory panel as permitted by division (B)(3) of section 3701.77 of the Revised Code, the department shall coordinate the panel to provide input and counsel regarding the lupus education and awareness program.</u>	26786
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<u>(B) If the panel is established, all of the following apply:</u>	26791
<u>(1) Individuals and organizations may submit to the department nominations for appointments to the panel. Each panel member shall have familiarity with lupus and issues that surround lupus.</u>	26792
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<u>(2) The panel shall be comprised of the following members to be appointed by the director of health:</u>	26796
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<u>(a) At least three individuals with lupus;</u>	26798
<u>(b) Not more than two representatives from the department;</u>	26799
<u>(c) At least five individuals from lupus nonprofit health organizations, with preference given to individuals from the lupus foundation of America, inc.;</u>	26800
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(d) At least five scientists or clinicians with experience in lupus who participate in various fields of scientific endeavor, including the fields of biomedical research, social, translational, behavioral and epidemiological research, and public health. 26803
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(3) The department shall select from among the panel members one member to serve as chairperson of the panel. 26808
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Members of the panel shall serve terms of two years each. Members may be named to serve a total of two terms and terms may be consecutive. 26810
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A majority of the members of the panel constitutes a quorum. A majority vote of a quorum is required for any official action of the panel. 26813
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The panel shall meet at the call of the panel chairperson, but not fewer than four times per year. 26816
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All members shall serve without compensation, but may be reimbursed for actual, necessary expenses incurred in the performance of their duties. 26818
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(4) The panel shall be responsible for advising the department and the intergovernmental council with respect to the implementation of the lupus education and awareness program. The department shall consult with the advisory panel on a regular basis. 26821
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Sec. 3701.775. There is hereby created in the state treasury the lupus education and awareness program fund. If the department of health establishes the lupus education and awareness program, as authorized under section 3701.77 of the Revised Code, all moneys accepted under division (C) of that section shall be credited to the fund. Money in the fund shall be used solely to administer the lupus education and awareness program. 26826
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Sec. 3701.87. The governor may authorize the department of 26833
health to enter into an agreement on behalf of the state with the 26834
United States secretary of health, ~~education,~~ and ~~welfare~~ human 26835
services whereby the department may serve as the agency for review 26836
of proposed capital expenditures by health care facilities 26837
pursuant to section 1122 of the "Social Security Act" as amended 26838
by Public Law 92-603, 42 U.S.C. 1320a-1, and the regulations 26839
adopted thereunder. Such agreement shall be subject to and include 26840
the following terms and conditions: 26841

(A) All applications, notices, requests for information, and 26842
other official communications shall be on written forms prescribed 26843
by and approved by the director of health ~~and approved by the~~ 26844
~~public health council.~~ 26845

(B) The ~~council~~ director, subject to Chapter 119. of the 26846
Revised Code, shall propose, modify, amend, and adopt rules, 26847
standards, guidelines, and official policies which are consistent 26848
with federal law, as it deems necessary to implement the capital 26849
expenditures review program. 26850

(C) The director shall make all findings and recommendations 26851
required by federal law and shall give due consideration to the 26852
findings, reviews, and comments of areawide health planning 26853
agencies performing reviews pursuant to section 314 (b)(2) of the 26854
"Public Health Service Act," 42 U.S.C. 246, or the appropriate 26855
health systems agency. 26856

(D) The findings and recommendations of the director shall be 26857
in writing and shall clearly specify the provisions of the state 26858
health facilities plan with which any application is found to be 26859
inconsistent. Any applicant adversely affected by the findings and 26860
recommendations of the director may request a hearing before the 26861
~~council~~ director pursuant to Chapter 119. of the Revised Code. The 26862
findings and recommendations of the ~~council~~ director are an 26863

adjudication as defined in Chapter 119. of the Revised Code and 26864
may be appealed as provided in that chapter. 26865

Sec. 3701.881. (A) As used in this section: 26866

(1) "Applicant" means ~~both of the following:~~ 26867

~~(a) A a person who is under final consideration for 26868
~~appointment to or~~ employment with a home health agency in a 26869
~~position as a person responsible for the care, custody, or control~~
~~of a child;~~ 26870
26871~~

~~(b) A person who is under final consideration for employment 26872
with a home health agency in a full-time, part-time, or temporary 26873
position that involves providing direct care to an ~~elder adult~~ 26874
individual or is referred to a home health agency by an employment 26875
service for such a position. With regard to persons providing 26876
~~direct care to older adults, "applicant" does not include a person~~ 26877
~~who provides direct care as a volunteer without receiving or~~ 26878
~~expecting to receive any form of remuneration other than~~ 26879
~~reimbursement for actual expenses.~~ 26880~~

(2) "Criminal records check" ~~and "elder adult" have~~ has the 26881
same ~~meanings~~ meaning as in section 109.572 of the Revised Code. 26882

(3) "Direct care" means any of the following: 26883

(a) Any service identified in divisions (A)(6)(a) to (f) of 26884
this section that is provided in a patient's place of residence 26885
used as the patient's home; 26886

(b) Any activity that requires the person performing the 26887
activity to be routinely alone with a patient or to routinely have 26888
access to a patient's personal property or financial documents 26889
regarding a patient; 26890

(c) For each home health agency individually, any other 26891
routine service or activity that the chief administrator of the 26892
home health agency designates as direct care. 26893

<u>(4) "Disqualifying offense" means any of the following:</u>	26894
<u>(a) One or more violations of section 959.13, 2903.01,</u>	26895
<u>2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13,</u>	26896
<u>2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341,</u>	26897
<u>2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03,</u>	26898
<u>2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21,</u>	26899
<u>2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321,</u>	26900
<u>2907.322, 2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 2909.22,</u>	26901
<u>2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13,</u>	26902
<u>2913.02, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32,</u>	26903
<u>2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45,</u>	26904
<u>2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02,</u>	26905
<u>2917.03, 2917.12, 2917.31, 2919.12, 2919.121, 2919.123, 2919.22,</u>	26906
<u>2919.23, 2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.21,</u>	26907
<u>2921.24, 2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12,</u>	26908
<u>2923.122, 2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32,</u>	26909
<u>2923.42, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06,</u>	26910
<u>2925.09, 2925.13, 2925.14, 2925.22, 2925.23, 2925.24, 2925.36,</u>	26911
<u>2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code;</u>	26912
<u>(b) One or more violations of felonious sexual penetration</u>	26913
<u>under former section 2907.12 of the Revised Code;</u>	26914
<u>(c) One or more violations of section 2905.04 of the Revised</u>	26915
<u>Code as it existed prior to July 1, 1996;</u>	26916
<u>(d) One violation of section 2925.11 of the Revised Code when</u>	26917
<u>the violation is not a minor drug possession offense;</u>	26918
<u>(e) Two or more violations of section 2925.11 of the Revised</u>	26919
<u>Code, regardless of whether any of the violations are a minor drug</u>	26920
<u>possession offense;</u>	26921
<u>(f) One or more violations of section 2923.01, 2923.02, or</u>	26922
<u>2923.03 of the Revised Code when the underlying offense that is</u>	26923
<u>the object of the conspiracy, attempt, or complicity is one of the</u>	26924

<u>offenses listed in divisions (A)(3)(a) to (e) of this section;</u>	26925
<u>(g) One or more violations of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in divisions (A)(3)(a) to (f) of this section.</u>	26926
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<u>(5) "Employee" means a person employed by a home health agency in a full-time, part-time, or temporary position that involves providing direct care to an individual and a person who works in such a position due to being referred to a home health agency by an employment service.</u>	26930
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<u>(6) "Home health agency" means a person or government entity, other than a nursing home, residential care facility, or hospice care program, that has the primary function of providing any of the following services to a patient at a place of residence used as the patient's home:</u>	26935
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(a) Skilled nursing care;	26940
(b) Physical therapy;	26941
(c) Speech-language pathology;	26942
(d) Occupational therapy;	26943
(e) Medical social services;	26944
(f) Home health aide services.	26945
(4) <u>(7) "Home health aide services" means any of the following services provided by an individual employed with or contracted for by employee of a home health agency:</u>	26946
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(a) Hands-on bathing or assistance with a tub bath or shower;	26949
(b) Assistance with dressing, ambulation, and toileting;	26950
(c) Catheter care but not insertion;	26951
(d) Meal preparation and feeding.	26952

(5) (8) "Hospice care program" has the same meaning as in section 3712.01 of the Revised Code.	26953 26954
(6) (9) "Medical social services" means services provided by a social worker under the direction of a patient's attending physician.	26955 26956 26957
(7) (10) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code.	26958 26959
(8) (11) "Nursing home," "residential care facility," and "skilled nursing care" have the same meanings as in section 3721.01 of the Revised Code.	26960 26961 26962
(9) (12) "Occupational therapy" has the same meaning as in section 4755.04 of the Revised Code.	26963 26964
(10) (13) "Physical therapy" has the same meaning as in section 4755.40 of the Revised Code.	26965 26966
(11) (14) "Social worker" means a person licensed under Chapter 4757. of the Revised Code to practice as a social worker or independent social worker.	26967 26968 26969
(12) (15) "Speech-language pathology" has the same meaning as in section 4753.01 of the Revised Code.	26970 26971
(B) <u>No home health agency shall employ an applicant or continue to employ an employee in a position that involves providing direct care to an individual if any of the following apply:</u>	26972 26973 26974 26975
<u>(1) A review of the databases listed in division (D) of this section reveals any of the following:</u>	26976 26977
<u>(a) That the applicant or employee is included in one or more of the databases listed in divisions (D)(1) to (5) of this section;</u>	26978 26979 26980
<u>(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement</u>	26981 26982

detailing findings by the director of health that the applicant or 26983
employee neglected or abused a long-term care facility or 26984
residential care facility resident or misappropriated property of 26985
such a resident; 26986

(c) That the applicant or employee is included in one or more 26987
of the databases, if any, specified in rules adopted under this 26988
section and the rules prohibit the home health agency from 26989
employing an applicant or continuing to employ an employee 26990
included in such a database in a position that involves providing 26991
direct care to an individual. 26992

(2) After the applicant or employee is provided, pursuant to 26993
division (E)(2)(a) of this section, a copy of the form prescribed 26994
pursuant to division (C)(1) of section 109.572 of the Revised Code 26995
and the standard impression sheet prescribed pursuant to division 26996
(C)(2) of that section, the applicant or employee fails to 26997
complete the form or provide the applicant's or employee's 26998
fingerprint impressions on the standard impression sheet. 26999

(3) Except as provided in rules adopted under this section, 27000
the applicant or employee is found by a criminal records check 27001
required by this section to have been convicted of, pleaded guilty 27002
to, or been found eligible for intervention in lieu of conviction 27003
for a disqualifying offense. 27004

(C) Except as provided by division (F) of this section, the 27005
chief administrator of a home health agency shall inform each 27006
applicant of both of the following at the time of the applicant's 27007
initial application for employment or referral to the home health 27008
agency by an employment service for a position that involves 27009
providing direct care to an individual: 27010

(1) That a review of the databases listed in division (D) of 27011
this section will be conducted to determine whether the home 27012
health agency is prohibited by division (B)(1) of this section 27013

from employing the applicant in the position; 27014

(2) That, unless the database review reveals that the 27015
applicant may not be employed in the position, a criminal records 27016
check of the applicant will be conducted and the applicant is 27017
required to provide a set of the applicant's fingerprint 27018
impressions as part of the criminal records check. 27019

(D) As a condition of employing any applicant in a position 27020
that involves providing direct care to an individual, the chief 27021
administrator of a home health agency shall conduct a database 27022
review of the applicant in accordance with rules adopted under 27023
this section. If rules adopted under this section so require, the 27024
chief administrator of a home health agency shall conduct a 27025
database review of an employee in accordance with the rules as a 27026
condition of continuing to employ the employee in a position that 27027
involves providing direct care to an individual. However, the 27028
chief administrator is not required to conduct a database review 27029
of an applicant or employee if division (F) of this section 27030
applies. A database review shall determine whether the applicant 27031
or employee is included in any of the following: 27032

(1) The excluded parties list system maintained by the United 27033
States general services administration pursuant to subpart 9.4 of 27034
the federal acquisition regulation; 27035

(2) The list of excluded individuals and entities maintained 27036
by the office of inspector general in the United States department 27037
of health and human services pursuant to section 1128 of the 27038
"Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as 27039
amended, and section 1156 of the "Social Security Act," 96 Stat. 27040
388 (1982), 42 U.S.C. 1320c-5, as amended; 27041

(3) The registry of MR/DD employees established under section 27042
5123.52 of the Revised Code; 27043

(4) The internet-based sex offender and child-victim offender 27044

database established under division (A)(11) of section 2950.13 of 27045
the Revised Code; 27046

(5) The internet-based database of inmates established under 27047
section 5120.66 of the Revised Code; 27048

(6) The state nurse aide registry established under section 27049
3721.32 of the Revised Code; 27050

(7) Any other database, if any, specified in rules adopted 27051
under this section. 27052

(E)(1) Except as provided in division (I) of this section As 27053
a condition of employing any applicant in a position that involves 27054
providing direct care to an individual, the chief administrator of 27055
a home health agency shall request the superintendent of the 27056
bureau of criminal identification and investigation to conduct a 27057
criminal records check ~~with respect to each of the~~ applicant. ~~If~~ 27058
~~the position may involve both responsibility for the care,~~ 27059
~~eustody, or control of a child and provision of direct care to an~~ 27060
~~elder adult, the chief administrator shall request that the~~ 27061
~~superintendent conduct a single criminal records check for the~~ 27062
~~applicant.~~ If rules adopted under this section so require, the 27063
chief administrator of a home health agency shall request the 27064
superintendent to conduct a criminal records check of an employee 27065
at times specified in the rules as a condition of continuing to 27066
employ the employee in a position that involves providing direct 27067
care to an individual. However, the chief administrator is not 27068
required to request the criminal records check of the applicant or 27069
the employee if division (F) of this section applies or the home 27070
health agency is prohibited by division (B)(1) of this section 27071
from employing the applicant or continuing to employ the employee 27072
in a position that involves providing direct care to an 27073
individual. If an applicant or employee for whom a criminal 27074
records check request is required ~~under~~ by this division section 27075
does not present proof of having been a resident of this state for 27076

the five-year period immediately prior to the date upon which the 27077
criminal records check is requested or does not provide evidence 27078
that within that five-year period the superintendent has requested 27079
information about the applicant from the federal bureau of 27080
investigation in a criminal records check, the chief administrator 27081
shall request that the superintendent obtain information from the 27082
federal bureau of investigation as a part of the criminal records 27083
check ~~for the applicant~~. Even if an applicant or employee for whom 27084
a criminal records check request is required ~~under~~ by this 27085
~~division section~~ presents proof that the applicant or employee has 27086
been a resident of this state for that five-year period, the chief 27087
administrator may request that the superintendent include 27088
information from the federal bureau of investigation in the 27089
criminal records check. 27090

(2) ~~Any person required by division (B)(1) of this section to~~ 27091
~~request a criminal records check~~ The chief administrator shall 27092
provide do all of the following: 27093

(a) Provide to each applicant and employee for whom a 27094
criminal records check request is required ~~under that division by~~ 27095
this section a copy of the form prescribed pursuant to division 27096
(C)(1) of section 109.572 of the Revised Code and a standard 27097
impression sheet prescribed pursuant to division (C)(2) of that 27098
~~section 109.572 of the Revised Code, obtain;~~ 27099

(b) Obtain the completed form and standard impression sheet 27100
from each applicant, ~~and forward~~ employee; 27101

(c) Forward the completed form and standard impression sheet 27102
to the superintendent ~~of the bureau of criminal identification and~~ 27103
~~investigation~~ at the time the chief administrator requests a the 27104
criminal records check ~~pursuant to division (B)(1) of this~~ 27105
~~section.~~ 27106

(3) ~~An applicant who receives pursuant to division (B)(2) of~~ 27107

~~this section a copy of the form prescribed pursuant to division 27108
(C)(1) of section 109.572 of the Revised Code and a copy of an 27109
impression sheet prescribed pursuant to division (C)(2) of that 27110
section and who is requested to complete the form and provide a 27111
set of fingerprint impressions shall complete the form or provide 27112
all the information necessary to complete the form and shall 27113
provide the impression sheets with the impressions of the 27114
applicant's fingerprints. If an applicant, upon request, fails to 27115
provide the information necessary to complete the form or fails to 27116
provide fingerprint impressions, the home health agency shall not 27117
employ that applicant for any position for which a criminal 27118
records check is required by division (B)(1) of this section. 27119~~

~~(C)(1) Except as provided in rules adopted by the department 27120
of health in accordance with division (F) of this section and 27121
subject to division (C)(3) of this section, no home health agency 27122
shall employ a person as a person responsible for the care, 27123
custody, or control of a child if the person previously has been 27124
convicted of or pleaded guilty to any of the following: 27125~~

~~(a) A violation of section 2903.01, 2903.02, 2903.03, 27126
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 27127
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 27128
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 27129
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 27130
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 27131
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 27132
2925.06, or 3716.11 of the Revised Code, a violation of section 27133
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 27134
violation of section 2919.23 of the Revised Code that would have 27135
been a violation of section 2905.04 of the Revised Code as it 27136
existed prior to July 1, 1996, had the violation been committed 27137
prior to that date, a violation of section 2925.11 of the Revised 27138
Code that is not a minor drug possession offense, or felonious 27139~~

~~sexual penetration in violation of former section 2907.12 of the Revised Code;~~ 27140
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~~(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (C)(1)(a) of this section.~~ 27142
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~~(2) Except as provided in rules adopted by the department of health in accordance with division (F) of this section and subject to division (C)(3) of this section, no home health agency shall employ a person in a position that involves providing direct care to an older adult if the person previously has been convicted of or pleaded guilty to any of the following:~~ 27146
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~~(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code.~~ 27152
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~~(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (C)(2)(a) of this section.~~ 27161
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(3)(a) A home health agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check the agency requests under this section. A home health agency may charge an applicant a fee not exceeding the amount the agency pays to the bureau under this 27165
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section if both of the following apply: 27171

(a) The home health agency notifies the applicant at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the applicant will not be considered for employment. 27172
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(b) The medicaid program established under Chapter 5111. of the Revised Code does not reimburse the home health agency for the fee it pays to the bureau under this section. 27176
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(F) Divisions (C) to (E) of this section do not apply with regard to an applicant or employee if the applicant or employee is referred to a home health agency by an employment service that supplies full-time, part-time, or temporary staff for positions that involve providing direct care to an individual and both of the following apply: 27179
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(1) The chief administrator of the home health agency receives from the employment service confirmation that a review of the databases listed in division (D) of this section was conducted with regard to the applicant or employee. 27185
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(2) The chief administrator of the home health agency receives from the employment service, applicant, or employee a report of the results of a criminal records check of the applicant or employee that has been conducted by the superintendent within the one-year period immediately preceding the following: 27189
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(a) In the case of an applicant, the date of the applicant's referral by the employment service to the home health agency; 27194
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(b) In the case of an employee, the date by which the home health agency would otherwise have to request a criminal records check of the employee under division (E) of this section. 27196
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(G)(1) A home health agency may employ conditionally an applicant for whom a criminal records check request is required 27199
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~~under division (B) of~~ by this section as a person responsible for 27201
~~the care, custody, or control of a child until the criminal~~ 27202
~~records check regarding the applicant required by this section is~~ 27203
~~completed and the agency receives~~ before obtaining the results of 27204
the criminal records check if the agency is not prohibited by 27205
division (B) of this section from employing the applicant in a 27206
position that involves providing direct care to an individual and 27207
either of the following applies: 27208

(a) The chief administrator of the home health agency 27209
requests the criminal records check in accordance with division 27210
(E) of this section not later than five business days after the 27211
applicant begins conditional employment. 27212

(b) The applicant is referred to the home health agency by an 27213
employment service, the employment service or the applicant 27214
provides the chief administrator of the agency a letter that is on 27215
the letterhead of the employment service, the letter is dated and 27216
signed by a supervisor or another designated official of the 27217
employment service, and the letter states all of the following: 27218

(i) That the employment service has requested the 27219
superintendent to conduct a criminal records check regarding the 27220
applicant; 27221

(ii) That the requested criminal records check is to include 27222
a determination of whether the applicant has been convicted of, 27223
pleaded guilty to, or been found eligible for intervention in lieu 27224
of conviction for a disqualifying offense; 27225

(iii) That the employment service has not received the 27226
results of the criminal records check as of the date set forth on 27227
the letter; 27228

(iv) That the employment service promptly will send a copy of 27229
the results of the criminal records check to the chief 27230
administrator of the home health agency when the employment 27231

service receives the results. 27232

(2) If a home health agency employs an applicant 27233
conditionally pursuant to division (G)(1)(b) of this section, the 27234
employment service, on its receipt of the results of the criminal 27235
records check, promptly shall send a copy of the results to the 27236
chief administrator of the agency. If the results of the criminal 27237
records check indicate that, pursuant to division (C)(1) of this 27238
section, the applicant does not qualify for employment, the agency 27239
shall release the applicant from employment unless the agency 27240
chooses to employ the applicant pursuant to division (F) of this 27241
section. 27242

~~(b)(i) A home health agency may employ conditionally an~~ 27243
~~applicant for whom a criminal records check request is required~~ 27244
~~under division (B) of this section in a position that involves~~ 27245
~~providing direct care to an older adult or in a position that~~ 27246
~~involves both responsibility for the care, custody, and control of~~ 27247
~~a child and the provision of direct care to older adults prior to~~ 27248
~~obtaining the results of a criminal records check regarding the~~ 27249
~~individual, provided that the agency shall request a criminal~~ 27250
~~records check regarding the individual in accordance with division~~ 27251
~~(B)(1) of this section not later than five business days after the~~ 27252
~~individual begins conditional employment. In the circumstances~~ 27253
~~described in division (I)(2) of this section, a home health agency~~ 27254
~~may employ conditionally in a position that involves providing~~ 27255
~~direct care to an older adult an applicant who has been referred~~ 27256
~~to the home health agency by an employment service that supplies~~ 27257
~~full time, part time, or temporary staff for positions involving~~ 27258
~~the direct care of older adults and for whom, pursuant to that~~ 27259
~~division, a criminal records check is not required under division~~ 27260
~~(B) of this section. In the circumstances described in division~~ 27261
~~(I)(4) of this section, a home health agency may employ~~ 27262
~~conditionally in a position that involves both responsibility for~~ 27263

~~the care, custody, and control of a child and the provision of 27264
direct care to older adults an applicant who has been referred to 27265
the home health agency by an employment service that supplies 27266
full time, part time, or temporary staff for positions involving 27267
both responsibility for the care, custody, and control of a child 27268
and the provision of direct care to older adults and for whom, 27269
pursuant to that division, a criminal records check is not 27270
required under division (B) of this section. 27271~~

~~(ii)(3) A home health agency that employs an individual 27272
applicant conditionally under authority of pursuant to division 27273
(C)(3)(b)(i)(G)(1)(a) or (b) of this section shall terminate the 27274
individual's applicant's employment if the results of the criminal 27275
records check requested under division (B)(1) of this section or 27276
described in division (I)(2) or (4) of this section, other than 27277
the results of any request for information from the federal bureau 27278
of investigation, are not obtained within the period ending thirty 27279
days after the date the request for the criminal records check is 27280
made. Regardless of when the results of the criminal records check 27281
are obtained, if the individual was employed conditionally in a 27282
position that involves the provision of direct care to older 27283
adults and the results indicate that the individual applicant has 27284
been convicted of ~~or~~, pleaded guilty to any of the offenses listed 27285
or described in division (C)(2) of this section, or if the 27286
individual was employed conditionally in a position that involves 27287
both responsibility for the care, custody, and control of a child 27288
and the provision of direct care to older adults and the results 27289
indicate that the individual has been convicted of or pleaded 27290
guilty to any of the offenses listed or described in division 27291
(C)(1) or (2) of this section, or been found eligible for 27292
intervention in lieu of conviction for a disqualifying offense, 27293
the home health agency shall terminate the individual's 27294
applicant's employment unless circumstances specified in rules 27295
adopted under this section that permit the agency to employ the 27296~~

~~applicant exist and~~ the agency chooses to employ the ~~individual~~ 27297
~~pursuant to division (F) of this section~~ applicant. Termination of 27298
employment under this division shall be considered just cause for 27299
discharge for purposes of division (D)(2) of section 4141.29 of 27300
the Revised Code if the ~~individual~~ applicant makes any attempt to 27301
deceive the home health agency about the ~~individual's~~ applicant's 27302
criminal record. 27303

~~(D)(1) Each home health agency shall pay to the bureau of~~ 27304
~~criminal identification and investigation the fee prescribed~~ 27305
~~pursuant to division (C)(3) of section 109.572 of the Revised Code~~ 27306
~~for each criminal records check conducted in accordance with that~~ 27307
~~section upon the request pursuant to division (B)(1) of this~~ 27308
~~section of the chief administrator of the home health agency.~~ 27309

~~(2) A home health agency may charge an applicant a fee for~~ 27310
~~the costs it incurs in obtaining a criminal records check under~~ 27311
~~this section, unless the medical assistance program established~~ 27312
~~under Chapter 5111. of the Revised Code reimburses the agency for~~ 27313
~~the costs. A fee charged under division (D)(2) of this section~~ 27314
~~shall not exceed the amount of fees the agency pays under division~~ 27315
~~(D)(1) of this section. If a fee is charged under division (D)(2)~~ 27316
~~of this section, the agency shall notify the applicant at the time~~ 27317
~~of the applicant's initial application for employment of the~~ 27318
~~amount of the fee and that, unless the fee is paid, the agency~~ 27319
~~will not consider the applicant for employment.~~ 27320

~~(E)(H)~~ The report of any criminal records check conducted by 27321
the bureau of criminal identification and investigation in 27322
accordance with section 109.572 of the Revised Code and pursuant 27323
to a request made under ~~division (B)(1) of this section~~ is not a 27324
public record for the purposes of section 149.43 of the Revised 27325
Code and shall not be made available to any person other than the 27326
following: 27327

(1) The ~~individual~~ applicant or employee who is the subject 27328

of the criminal records check or the ~~individual's~~ applicant's or 27329
employee's representative; 27330

(2) The home health agency requesting the criminal records 27331
check or its representative; 27332

(3) The administrator of any other facility, agency, or 27333
program that provides direct care to ~~elder adults~~ individuals that 27334
is owned or operated by the same entity that owns or operates the 27335
home health agency that requested the criminal records check; 27336

(4) The employment service that requested the criminal 27337
records check; 27338

(5) Any court, hearing officer, or other necessary individual 27339
involved in a case dealing with ~~a~~ any of the following: 27340

(a) A denial of employment of the applicant or 27341
employment ~~employee;~~ 27342

(b) Employment or unemployment benefits of the applicant or 27343
employee; 27344

~~(5) Any person to whom the report is provided pursuant to,~~ 27345
~~and in accordance with, division (I)(1), (2), (3), or (4) of this~~ 27346
~~section~~ (c) A civil or criminal action regarding the medicaid 27347
program. 27348

~~(F) The department of health shall adopt rules in accordance~~ 27349
~~with Chapter 119. of the Revised Code to implement this section.~~ 27350
~~The rules shall specify circumstances under which the home health~~ 27351
~~agency may employ a person who has been convicted of or pleaded~~ 27352
~~guilty to an offense listed or described in division (C)(1) of~~ 27353
~~this section but who meets standards in regard to rehabilitation~~ 27354
~~set by the department or employ a person who has been convicted of~~ 27355
~~or pleaded guilty to an offense listed or described in division~~ 27356
~~(C)(2) of this section but meets personal character standards set~~ 27357
~~by the department.~~ 27358

~~(G) Any person required by division (B)(1) of this section to request a criminal records check shall inform each person, at the time of initial application for employment that the person is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that position.~~

~~(H)~~(I) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an individual applicant or employee who a home health agency employs in a position that involves providing direct care to ~~elder adults~~ an individual, all of the following shall apply:

(1) If the home health agency employed the individual applicant or employee in good faith and reasonable reliance on the report of a criminal records check requested under this section, the agency shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate+.

(2) If the home health agency employed the individual applicant in good faith on a conditional basis pursuant to division ~~(C)(3)(b)~~(G) of this section, the agency shall not be found negligent solely because it employed the individual applicant prior to receiving the report of a criminal records check requested under this section+.

(3) If the home health agency in good faith employed the individual applicant or employee according to the personal character standards established in rules adopted under ~~division (F)~~ of this section, the agency shall not be found negligent solely because the individual prior to being employed applicant or

~~employee had been convicted of or, pleaded guilty to an, or been
found eligible for intervention in lieu of conviction for a
disqualifying offense listed or described in division (C)(1) or
(2) of this section.~~

~~(I)(1) The chief administrator of a home health agency is not
required to request that the superintendent of the bureau of
criminal identification and investigation conduct a criminal
records check of an applicant for a position that involves the
provision of direct care to older adults if the applicant has been
referred to the agency by an employment service that supplies
full time, part time, or temporary staff for positions involving
the direct care of older adults and both of the following apply:~~

~~(a) The chief administrator receives from the employment
service or the applicant a report of the results of a criminal
records check regarding the applicant that has been conducted by
the superintendent within the one year period immediately
preceding the applicant's referral;~~

~~(b) The report of the criminal records check demonstrates
that the person has not been convicted of or pleaded guilty to an
offense listed or described in division (C)(2) of this section, or
the report demonstrates that the person has been convicted of or
pleaded guilty to one or more of those offenses, but the home
health agency chooses to employ the individual pursuant to
division (F) of this section.~~

~~(2) The chief administrator of a home health agency is not
required to request that the superintendent of the bureau of
criminal identification and investigation conduct a criminal
records check of an applicant for a position that involves
providing direct care to older adults and may employ the applicant
conditionally in a position of that nature as described in this
division, if the applicant has been referred to the agency by an
employment service that supplies full time, part time, or~~

~~temporary staff for positions involving the direct care of older adults and if the chief administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(2) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the home health agency. If a home health agency employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the home health agency, and division (C)(3)(b) of this section applies regarding the conditional employment.~~

~~(3) The chief administrator of a home health agency is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant for a position that involves both responsibility for the care, custody, and control of a child and the provision of direct care to older adults if the applicant has been referred to the agency by an employment service that supplies full time, part time, or temporary staff for positions involving both responsibility for the care, custody, and control of a child and the provision of direct care to older adults and both of the following apply:~~

~~(a) The chief administrator receives from the employment service or applicant a report of a criminal records check of the type described in division (I)(1)(a) of this section;~~ 27455
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~~(b) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) or (2) of this section, or the report demonstrates that the person has been convicted of or pleaded guilty to one or more of those offenses, but the home health agency chooses to employ the individual pursuant to division (F) of this section.~~ 27458
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~~(4) The chief administrator of a home health agency is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant for a position that involves both responsibility for the care, custody, and control of a child and the provision of direct care to older adults and may employ the applicant conditionally in a position of that nature as described in this division, if the applicant has been referred to the agency by an employment service that supplies full time, part time, or temporary staff for positions involving both responsibility for the care, custody, and control of a child and the direct care of older adults and if the chief administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(1) or (2) of this section, that, as of the date set forth on the letter, the employment~~ 27465
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~~service had not received the results of the criminal records 27487
check, and that, when the employment service receives the results 27488
of the criminal records check, it promptly will send a copy of the 27489
results to the home health agency. If a home health agency employs 27490
an applicant conditionally in accordance with this division, the 27491
employment service, upon its receipt of the results of the 27492
criminal records check, promptly shall send a copy of the results 27493
to the home health agency, and division (C)(3)(b) of this section 27494
applies regarding the conditional employment. 27495~~

(J) The director of health shall adopt rules in accordance 27496
with Chapter 119. of the Revised Code to implement this section. 27497

(1) The rules may do the following: 27498

(a) Require employees to undergo database reviews and 27499
criminal records checks under this section; 27500

(b) If the rules require employees to undergo database 27501
reviews and criminal records checks under this section, exempt one 27502
or more classes of employees from the requirements; 27503

(c) For the purpose of division (D)(7) of this section, 27504
specify other databases that are to be checked as part of a 27505
database review conducted under this section. 27506

(2) The rules shall specify all of the following: 27507

(a) The procedures for conducting database reviews under this 27508
section; 27509

(b) If the rules require employees to undergo database 27510
reviews and criminal records checks under this section, the times 27511
at which the database reviews and criminal records checks are to 27512
be conducted; 27513

(c) If the rules specify other databases to be checked as 27514
part of the database reviews, the circumstances under which a home 27515
health agency is prohibited from employing an applicant or 27516

continuing to employ an employee who is found by a database review 27517
to be included in one or more of those databases; 27518

(d) Circumstances under which a home health agency may employ 27519
an applicant or employee who is found by a criminal records check 27520
required by this section to have been convicted of, pleaded guilty 27521
to, or been found eligible for intervention in lieu of conviction 27522
for a disqualifying offense but meets personal character 27523
standards. 27524

Sec. ~~185.01~~ 3701.92. As used in ~~this chapter~~ sections 27525
3701.921 to 3701.929 of the Revised Code: 27526

(A) "Advanced practice nurse" has the same meaning as in 27527
section 4723.01 of the Revised Code. 27528

~~(B) "Collaboration" has the same meaning as in section~~ 27529
~~4723.01 of the Revised Code.~~ 27530

~~(C) "Patient centered medical home education advisory group"~~ 27531
~~means the entity established under section ~~185.03~~ 3701.924 of the~~ 27532
~~Revised Code to implement and administer the patient centered~~ 27533
~~medical home education pilot project.~~ 27534

(D) "Patient centered medical home education program" means 27535
the program established under section 3701.921 of the Revised Code 27536
and any pilot projects operated pursuant to that section. 27537

(E) "Patient centered medical home education pilot project" 27538
means the pilot project established under section ~~185.02~~ 3701.923 27539
of the Revised Code. 27540

(F) "Physician assistant" has the same meaning as in section 27541
4730.01 of the Revised Code. 27542

Sec. 3701.921. There is hereby established the patient 27543
centered medical home education program in the department of 27544
health. For the purpose of advancing education in the patient 27545

centered medical home model of care, the director of health may 27546
implement and administer the program pursuant to sections 3701.922 27547
to 3701.929 of the Revised Code. The patient centered medical home 27548
model of care is an enhanced model of primary care in which care 27549
teams attend to the multifaceted needs of patients, providing 27550
whole person comprehensive and coordinate patient centered care. 27551

To the extent that funds are available, the program shall 27552
include the patient centered medical home education pilot project 27553
and may include any other pilot projects the director establishes 27554
pursuant to division (A)(3) of section 3701.922 of the Revised 27555
Code. 27556

Sec. 3701.922. (A) The director of health may do any of the 27557
following to implement and administer the patient centered medical 27558
home education program: 27559

(1) Develop and implement programs of education or training 27560
on the patient centered medical home model of care or other 27561
similar enhanced models of coordinated patient centered care that 27562
are intended to address the multifaceted needs of patients and 27563
provide whole person comprehensive and coordinated patient 27564
centered care; 27565

(2) Advise, consult, cooperate with, and assist, by contract 27566
or other arrangement, government agencies or institutions or 27567
private organizations, corporations, or associations in the 27568
development and promotion of programs pertaining to the evaluation 27569
and implementation of the patient centered medical home model of 27570
care or other similar enhanced models of coordinated patient 27571
centered care; 27572

(3) Establish pilot projects that do any of the following: 27573

(a) Evaluate or implement the patient centered medical home 27574
model of care or other similar enhanced models of coordinated 27575

patient centered care; 27576

(b) Provide education or training on the patient centered 27577
medical home model of care or other similar enhanced models of 27578
coordinated patient centered care. 27579

(4) Seek and administer state funds or grants from other 27580
sources to carry out any functions of the patient centered medical 27581
home education program. 27582

Any funds or grants received by the director for purposes of 27583
the program shall be used for the program. 27584

(B) The director may adopt rules as necessary to implement 27585
and administer the patient centered medical home education 27586
program, including rules that define what constitutes a "patient 27587
centered medical home" for purposes of an entity authorized to 27588
provide care coordination services. The rules shall be adopted in 27589
accordance with Chapter 119. of the Revised Code. 27590

Sec. 185.02 3701.923. ~~(A) There is hereby established the~~ 27591
~~patient centered medical home education pilot project. The pilot~~ 27592
~~project shall be implemented and administered by the patient~~ 27593
~~centered medical home education advisory group.~~ 27594

~~(B) The pilot project shall be operated to advance medical~~ 27595
~~education in the patient centered medical home model of care. The~~ 27596
~~patient centered medical home model of care is an enhanced model~~ 27597
~~of primary care in which care teams attend to the multifaceted~~ 27598
~~needs of patients, providing whole person comprehensive and~~ 27599
~~coordinated patient centered care.~~ 27600

~~(C) To the extent that funds are available, the director of~~ 27601
~~health shall establish the patient centered medical home education~~ 27602
~~pilot project. If the director establishes the project, all of the~~ 27603
~~following apply:~~ 27604

(1) The director shall select practices led by physicians and 27605

primary care practices led by advanced practice nurses to 27606
participate in the project. The director may consider the 27607
recommendations of the advisory group made in accordance with 27608
section 3701.925 of the Revised Code, but may not select a 27609
practice unless the practice complies with any applicable 27610
requirements under section 3701.926 of the Revised Code. 27611

(2) The director shall conduct the project in a manner that 27612
advances education in the patient centered medical home model of 27613
care. 27614

(3) The director shall evaluate all of the following: 27615

(a) Learning opportunities generated by the project; 27616

(b) Training of physicians and advanced practice nurses under 27617
the project; 27618

(c) Costs of the project; 27619

(d) The extent to which the project met the expected outcomes 27620
developed under division (A) of section 3701.924 of the Revised 27621
Code. 27622

(4) The director shall assess and review results of the 27623
project. 27624

(5) The director shall recommend best practices and 27625
opportunities for improving technology, education, comprehensive 27626
training, consultation, and technical assistance for health care 27627
service providers in the patient centered medical home model of 27628
care. 27629

(B) The director may contract with an entity that has 27630
significant experience in assisting physician-led practices and 27631
advanced practice nurse-led primary care practices in 27632
transitioning to the patient centered medical home model of care. 27633
The contract shall require the entity to do both of the following: 27634

(1) Provide, to each practice that enters into a contract 27635

with the director pursuant to section 3701.927 of the Revised Code, comprehensive training, consultation, and technical assistance in the operation of a patient centered medical home, including assistance with leadership training, scheduling changes, staff support, and care management for chronic health conditions; 27636
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(2) Assist the director in identifying necessary financial and operational requirements and any barriers or challenges associated with transitioning to a patient centered medical home model of care. 27641
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(C) The project established under this section shall begin not later than the date the first practice enters into a contract with the director pursuant to section 3701.927 of the Revised Code and shall cease not later than the date the final report is submitted pursuant to division (B)(3) of section 3701.929 of the Revised Code. 27645
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(D) The ~~pilot~~ project shall not be operated in a manner that requires a patient, unless otherwise required by the Revised Code, to receive a referral from a physician in a practice selected for inclusion in the pilot project under division (A)(1) of this section ~~185.05 of the Revised Code~~ as a condition of being authorized to receive specialized health care services from an individual licensed or certified under Title XLVII of the Revised Code to provide those services. 27651
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Sec. ~~185.03~~ 3701.924. (A) The patient centered medical home education advisory group is hereby created for the purpose of ~~implementing and administering~~ advising the director of health on the implementation and administration of the patient centered medical home ~~pilot project~~ education program. The advisory group shall develop and provide to the director a set of expected outcomes for the pilot project. The advisory group shall consider and provide other recommendations to the director and complete 27659
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<u>other duties as the director considers appropriate.</u>	27667
(B) The advisory group shall consist of the following voting	27668
<u>members:</u>	27669
(1) <u>The following members appointed by the director of</u>	27670
<u>health:</u>	27671
(1)(a) One individual with expertise in the training and	27672
education of primary care physicians who is appointed <u>recommended</u>	27673
by the dean of the university of Toledo college of medicine;	27674
(2)(b) One individual with expertise in the training and	27675
education of primary care physicians who is appointed <u>recommended</u>	27676
by the dean of the Boonshoft school of medicine at Wright state	27677
university;	27678
(3)(c) One individual with expertise in the training and	27679
education of primary care physicians who is appointed <u>recommended</u>	27680
by the president and dean of the northeast Ohio medical	27681
university;	27682
(4)(d) One individual with expertise in the training and	27683
education of primary care physicians who is appointed <u>recommended</u>	27684
by the dean of the Ohio university college of osteopathic	27685
medicine;	27686
(5)(e) Two individuals appointed <u>recommended</u> by the governing	27687
board of the Ohio academy of family physicians;	27688
(6)(f) One individual appointed <u>recommended</u> by the governing	27689
board of the Ohio chapter of the American college of physicians;	27690
(7)(g) One individual appointed <u>recommended</u> by the governing	27691
board of the <u>Ohio chapter of the</u> American academy of pediatrics;	27692
(8)(h) One individual appointed <u>recommended</u> by the governing	27693
board of the Ohio osteopathic association;	27694
(9)(i) One individual with expertise in the training and	27695
education of advanced practice nurses who is appointed,	27696

recommended by the governing board of the Ohio council of deans 27697
and directors of baccalaureate and higher degree programs in 27698
nursing; 27699

~~(10)~~(j) One individual ~~appointed~~ recommended by the governing 27700
board of the Ohio nurses association; 27701

~~(11)~~(k) One individual ~~appointed~~ recommended by the governing 27702
board of the Ohio association of advanced practice nurses; 27703

~~(12)~~(l) One individual ~~appointed~~ recommended by the governing 27704
board of the Ohio council for home care and hospice; 27705

~~(13)~~(m) One individual ~~appointed~~ recommended by the 27706
superintendent of insurance; 27707

(n) An employee of the department of health; 27708

(o) Not more than five additional members who have relevant 27709
expertise that the director considers appropriate. 27710

~~(C)~~(2) The ~~advisory group shall consist of the~~ following 27711
~~nonvoting, ex officio~~ members: 27712

~~(1)~~(a) The executive director of the state medical board, or 27713
the director's designee; 27714

~~(2)~~(b) The executive director of the board of nursing or the 27715
director's designee; 27716

~~(3)~~(c) The chancellor of the Ohio board of regents, or the 27717
chancellor's designee; 27718

~~(4)~~(d) The individual within the department of job and family 27719
services who serves as the director of medicaid, or the director's 27720
designee; 27721

~~(5) The director of health or the director's designee.~~ 27722

~~(D) Advisory group members who are appointed shall serve at~~ 27723
~~the pleasure of their appointing authorities. Terms of office of~~ 27724
~~appointed members shall be three years, except that a member's~~ 27725

~~term ends if the pilot project ceases operation during the~~ 27726
~~member's term.~~ 27727

(C)(1) In making the original appointments of the members 27728
specified in divisions (B)(1)(a) to (m) of this section, the 27729
director shall appoint the member who served in that capacity in 27730
the patient centered medical home advisory group, as it existed 27731
immediately prior to the effective date of this section. If for 27732
any reason the member who served immediately prior to the 27733
effective date of this section is unable to serve on the advisory 27734
group, the director shall request from the specified recommending 27735
authority a list of not less than two persons qualified to serve 27736
as members of the advisory group. The director shall appoint as a 27737
member one person from the list submitted by the recommending 27738
authority. 27739

(2) The advisory group members specified in divisions 27740
(B)(1)(a) to (m) of this section shall serve at the pleasure of 27741
the director, in consultation with their respective recommending 27742
authorities. 27743

(3) Vacancies shall be filled in the manner provided for 27744
original appointments. 27745

(D) Members shall serve without compensation, except to the 27746
extent that serving on the advisory group is considered part of 27747
their regular employment duties. 27748

~~(E) The advisory group shall select~~ director may appoint from 27749
~~among its~~ the members of the advisory group a chairperson and 27750
~~vice-chairperson. The advisory group may select any other officers~~
~~it considers necessary to conduct its business.~~ 27751
27752

A majority of the members of the advisory group constitutes a 27753
~~quorum for the transaction of official business.~~ A majority of a 27754
quorum is necessary for the advisory group to ~~take any action,~~ 27755
~~except that when one or more members of a quorum are required to~~ 27756

~~abstain from voting as provided in division (C)(1)(d) or (C)(2)(e)~~ 27757
~~of section 185.05 of the Revised Code, the number of members~~ 27758
~~necessary for a majority of a quorum shall be reduced accordingly~~ 27759
make any recommendations to the director. 27760

~~The advisory group shall meet as necessary to fulfill its~~ 27761
~~duties. The times and places for the meetings shall be selected by~~ 27762
~~the chairperson at the call of the director. The director shall~~ 27763
call the advisory group to meet not less than annually to discuss 27764
or consider recommendations to the director on the administration 27765
of the patient centered medical home education program. 27766

(F) Sections 101.82 to 101.87 of the Revised Code do not 27767
apply to the advisory group. 27768

Sec. 185.05 3701.925. (A) The patient centered medical home 27769
education advisory group shall accept applications for inclusion 27770
in the patient centered medical home education pilot project from 27771
primary care practices with educational affiliations, as 27772
determined by the advisory group, with one or more of the 27773
following: 27774

(1) The Boonshoft school of medicine at Wright state 27775
university; 27776

(2) The university of Toledo college of medicine; 27777

(3) The northeast Ohio medical university; 27778

(4) The Ohio university college of osteopathic medicine; 27779

(5) The college of nursing at the university of Toledo; 27780

(6) The Wright state university college of nursing and 27781
health; 27782

(7) The college of nursing at Kent state university; 27783

(8) The university of Akron college of nursing; 27784

(9) The school of nursing at Ohio university. 27785

(B)(1) Subject to division (C)(1) of this section, the	27786
advisory group shall select <u>recommend to the director of health</u>	27787
for inclusion in the pilot project not more <u>less</u> than the	27788
following number of physician practices <u>led by physicians</u> :	27789
(a) Ten practices affiliated with the Boonshoft school of	27790
medicine at Wright state university;	27791
(b) Ten practices affiliated with the university of Toledo	27792
college of medicine;	27793
(c) Ten practices affiliated with the northeast Ohio medical	27794
university;	27795
(d) Ten practices affiliated with the centers for osteopathic	27796
research and education of the Ohio university college of	27797
osteopathic medicine.	27798
(2) Subject to division (C)(2) of this section, the advisory	27799
group shall select <u>recommend to the director of health</u> for	27800
inclusion in the pilot project not less than the following number	27801
of advanced practice nurse primary care practices <u>led by advanced</u>	27802
<u>practice nurses</u> :	27803
(a) One practice affiliated with the college of nursing at	27804
the university of Toledo;	27805
(b) One practice affiliated with the Wright state university	27806
college of nursing and health;	27807
(c) One practice affiliated with the college of nursing at	27808
Kent state university or the university of Akron college of	27809
nursing;	27810
(d) One practice affiliated with the school of nursing at	27811
Ohio university.	27812
(C)(1) All of the following apply with respect to the	27813
selection <u>recommendation</u> of physician <u>physician-led</u> practices	27814
under division (B) of this section:	27815

(a) The advisory group shall strive to ~~select physician~~ 27816
recommend physician-led practices in such a manner that the pilot 27817
project includes a diverse range of primary care specialties, 27818
including practices specializing in pediatrics, geriatrics, 27819
general internal medicine, or family medicine. 27820

(b) When evaluating an application, the advisory group shall 27821
consider the percentage of patients in the ~~physician~~ physician-led 27822
practice who are part of a medically underserved population, 27823
including medicaid recipients and individuals without health 27824
insurance. 27825

(c) The advisory group shall ~~select~~ recommend not fewer than 27826
six practices that serve rural areas of this state, as those areas 27827
are determined by the advisory group. 27828

(d) A member of the advisory group shall abstain from 27829
participating in any vote taken regarding the ~~selection~~ 27830
recommendation of a ~~physician~~ physician-led practice if the member 27831
would receive any financial benefit from having the practice 27832
included in the pilot project. 27833

(2) All of the following apply with respect to the ~~selection~~ 27834
recommendation of advanced practice ~~nurse~~ nurse-led primary care 27835
practices under division (B) of this section: 27836

(a) When evaluating an application, the advisory group shall 27837
consider the percentage of patients in the advanced practice ~~nurse~~ 27838
nurse-led primary care practice who are part of a medically 27839
underserved population, including medicaid recipients and 27840
individuals without health insurance. 27841

(b) If the advisory group determines that it has not received 27842
an application from a sufficiently qualified advanced practice 27843
~~nurse~~ nurse-led primary care practice affiliated with a particular 27844
institution specified in division (B)(2) of this section, the 27845
advisory group shall make the ~~selections~~ recommendations required 27846

under that division in such a manner that the greatest possible 27847
number of those institutions are ~~represented~~ recommended to be 27848
included in the pilot project. To be ~~selected~~ recommended in this 27849
manner, a practice remains subject to the eligibility requirements 27850
specified in division (B) of section ~~185.06~~ 3701.926 of the 27851
Revised Code. As specified in division (B)(2) of this section, the 27852
number of practices ~~selected~~ recommended for inclusion in the 27853
pilot project shall be at least four. 27854

(c) A member of the advisory group shall abstain from 27855
participating in any vote taken regarding the ~~selection~~ 27856
recommendation of an advanced practice ~~nurse~~ nurse-led primary 27857
care practice if the member would receive any financial benefit 27858
from having the practice included in the pilot project. 27859

(D) The advisory group shall provide a copy of all 27860
applications received under this section to the director of health 27861
after making recommendations under division (B)(1) of this 27862
section. 27863

Sec. ~~185.06~~ 3701.926. (A) To be eligible for inclusion in the 27864
patient centered medical home education pilot project, a ~~physician~~ 27865
physician-led practice shall meet all of the following 27866
requirements: 27867

(1) Consist of physicians who are board-certified in family 27868
medicine, general pediatrics, or internal medicine, as those 27869
designations are issued by a medical specialty certifying board 27870
recognized by the American board of medical specialties or 27871
American osteopathic association; 27872

(2) Be capable of adapting the practice during the period in 27873
which the practice ~~receives funding from~~ participates in the 27874
patient centered medical home education ~~advisory group~~ pilot 27875
project in such a manner that the practice is fully compliant with 27876
the minimum standards for operation of a patient centered medical 27877

home, as those standards are established by the ~~advisory group~~ 27878
director of health; 27879

(3) Have submitted an application to participate in the 27880
project established under former section 185.05 of the Revised 27881
Code not later than April 15, 2011. 27882

(4) Meet any other criteria established by the ~~advisory group~~ 27883
director as part of the selection process. 27884

(B) To be eligible for inclusion in the pilot project, an 27885
advanced practice ~~nurse~~ nurse-led primary care practice shall meet 27886
all of the following requirements: 27887

(1) Consist of advanced practice nurses ~~who meet, each of~~ 27888
whom meets all of the following requirements: 27889

(a) ~~Hold~~ Holds a certificate to prescribe issued under 27890
section 4723.48 of the Revised Code; 27891

(b) ~~Are~~ Is board-certified as a family nurse practitioner or 27892
adult nurse practitioner by the American academy of nurse 27893
practitioners or American nurses credentialing center, 27894
board-certified as a geriatric nurse practitioner or women's 27895
health nurse practitioner by the American nurses credentialing 27896
center, or is board-certified as a pediatric nurse practitioner by 27897
the American nurses credentialing center or pediatric nursing 27898
certification board; 27899

(c) ~~Has a collaboration agreement~~ Collaborates under a 27900
standard care arrangement with a physician with board 27901
certification as specified in division (A)(1) of this section and 27902
who is an active participant on the health care team. 27903

(2) Be capable of adapting the primary care practice during 27904
the period in which the practice ~~receives funding from~~ 27905
participates in the ~~advisory group~~ project in such a manner that 27906
the practice is fully compliant with the minimum standards for 27907

operation of a patient centered medical home, as those standards 27908
are established by the ~~advisory group~~ director; 27909

(3) Have submitted an application to participate in the 27910
project established under former section 185.05 of the Revised 27911
Code not later than April 15, 2011. 27912

(4) Meet any other criteria established by the ~~advisory group~~ 27913
director as part of the selection process. 27914

Sec. ~~185.07~~ 3701.927. The ~~patient centered medical home~~ 27915
~~education advisory group~~ director of health shall enter into a 27916
contract with each primary care practice selected by the director 27917
for inclusion in the patient centered medical home education pilot 27918
project. The contract shall specify the terms and conditions for 27919
inclusion in the pilot project, including a requirement that the 27920
practice provide comprehensive, coordinated primary care services 27921
to patients and serve as the patients' medical home. The contract 27922
shall also require the practice to participate in the training of 27923
medical students, advanced practice nursing students, ~~or~~ physician 27924
assistant students, and primary care medical residents. 27925

The director may include as part of the contract any other 27926
requirements necessary for a practice to be included in the 27927
project, including requirements regarding the number of patients 27928
served who are medicaid recipients and individuals without health 27929
insurance. 27930

Sec. ~~185.09~~ 3701.928. (A) The director of health or, at the 27931
director's request, the patient centered medical home education 27932
advisory group ~~shall jointly~~ may work with ~~all~~ medical ~~and,~~ 27933
nursing, and physician assistant schools or programs in this state 27934
to develop appropriate curricula designed to prepare primary care 27935
physicians ~~and,~~ advanced practice nurses, and physician assistants 27936
to practice within the patient centered medical home model of 27937

care. In developing the curricula, the director or advisory group~~7~~ 27938
~~medical schools, and nursing~~ and the schools or programs shall 27939
include all of the following: 27940

(1) Components for use at the medical student, advanced 27941
practice nursing student, physician assistant student, and primary 27942
care resident training levels; 27943

(2) Components that reflect, as appropriate, the special 27944
needs of patients who are part of a medically underserved 27945
population, including medicaid recipients, individuals without 27946
health insurance, individuals with disabilities, individuals with 27947
chronic health conditions, and individuals within racial or ethnic 27948
minority groups; 27949

(3) Components that include training in interdisciplinary 27950
cooperation between physicians ~~and~~, advanced practice nurses, and 27951
physician assistants in the patient centered medical home model of 27952
care, including curricula ensuring that a common conception of a 27953
patient centered medical home model of care is provided to medical 27954
students, advanced practice nurses, physician assistants, and 27955
primary care residents. 27956

(B) The director or advisory group ~~shall~~ may work in 27957
association with the medical ~~and~~, nursing, and physician assistant 27958
schools or programs to identify funding sources to ensure that the 27959
curricula developed under division (A) of this section are 27960
accessible to medical students, advanced practice nursing 27961
students, physician assistant students, and primary care 27962
residents. The director or advisory group shall consider 27963
scholarship options or incentives provided to students in addition 27964
to those provided under the choose Ohio first scholarship program 27965
operated under section 3333.61 of the Revised Code. 27966

Sec. ~~185.12~~ 3701.929. (A) ~~The patient centered medical home~~ 27967
~~education advisory group~~ If the director of health establishes the 27968

patient centered medical home education pilot project, the 27969
director shall prepare reports of its findings and recommendations 27970
from the ~~patient centered medical home education~~ pilot project. 27971
Each report shall include an evaluation of the learning 27972
opportunities generated by the pilot project, the physicians and 27973
advanced practice nurses trained in the pilot project, the costs 27974
of the pilot project, and the extent to which the pilot project 27975
has met the set of expected outcomes developed under division (A) 27976
of section ~~185.03~~ 3701.924 of the Revised Code. 27977

(B) The reports shall be completed in accordance with the 27978
following schedule: 27979

(1) An interim report not later than six months after the 27980
date on which the ~~first funding is released~~ last primary care 27981
practice selected to participate in the project enters into a 27982
contract with the department of health pursuant to section ~~185.11~~ 27983
3701.927 of the Revised Code; 27984

(2) An update of the interim report not later than one year 27985
after the date ~~on which the first funding is released~~ specified 27986
under division (B)(1) of this section; 27987

(3) A final report not later than two years after the date ~~on~~ 27988
~~which the first funding is released~~ specified under division 27989
(B)(1) of this section. 27990

(C) The ~~advisory group~~ director shall submit each of the 27991
reports to the governor and, in accordance with section 101.68 of 27992
the Revised Code, to the general assembly. 27993

Sec. 3701.93. Subject to available funds, the director of 27994
health shall establish the Ohio violent death reporting system to 27995
collect and maintain information, data, and records regarding 27996
violent deaths in Ohio. 27997

Sec. 3701.931. The Ohio violent death reporting system shall 27998
do all of the following regarding violent death information, data, 27999
and records maintained in the system: 28000

(A) Monitor the incidence and causes of the various types of 28001
violent deaths; 28002

(B) Make appropriate epidemiologic studies of the violent 28003
deaths; 28004

(C) Analyze trends and patterns in, and circumstances related 28005
to, the violent deaths; 28006

(D) With the assistance of the advisory group established 28007
pursuant to section 3701.932 of the Revised Code, recommend 28008
actions to relevant entities to prevent violent deaths and make 28009
any other such recommendations the director of health determines 28010
necessary. 28011

Sec. 3701.932. The director of health shall establish an 28012
advisory group of interested parties and stakeholders to recommend 28013
actions to relevant entities to prevent violent deaths, and make 28014
other recommendations the director determines necessary, in 28015
accordance with division (D) of section 3701.931 of the Revised 28016
Code. 28017

Sec. 3701.933. The data collection model used by the Ohio 28018
violent death reporting system shall follow the data collection 28019
model used by the United States centers for disease control and 28020
prevention national violent death reporting system and any other 28021
data collection model set forth by the director of health pursuant 28022
to section 3701.934 of the Revised Code. 28023

Sec. 3701.934. The director of health, pursuant to rules 28024
adopted in accordance with Chapter 119. of the Revised Code, shall 28025

do all of the following: 28026

(A) Specify the types of violent deaths that shall be included in the Ohio violent death reporting system; 28027
28028

(B) Specify the information, data, and records to be collected for use by the Ohio violent death reporting system; 28029
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(C) Specify the sources from which the information, data, and records are to be collected for use by the Ohio violent death reporting system; 28031
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(D) If determined appropriate by the director, set forth any other data collection model to be used by the Ohio violent death reporting system. 28034
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Sec. 3701.935. The director of health shall collect information about violent deaths in Ohio only from existing sources related to violent crimes and shall not conduct independent criminal investigations in order to obtain information, data, or records for use by the Ohio violent death reporting system. 28037
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Sec. 3701.936. At the request of the director of health, every department, agency, and political subdivision of the state shall provide information, data, records, and otherwise assist in the execution of sections 3701.93 to 3701.9314 of the Revised Code. 28043
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Sec. 3701.937. At the request of the director of health, any individual or entity not specified in section 3701.936 of the Revised Code, at the individual's or entity's discretion, may provide information, data, records, and otherwise assist in the execution of sections 3701.93 to 3701.9314 of the Revised Code. Any information, data, and records provided to the director by any 28048
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other individual or entity shall contain only information, data, or records that are available or reasonably drawn from any information, data, and record developed and kept in the normal course of business. 28054
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Sec. 3701.938. Notwithstanding any section of the Revised Code pertaining to confidentiality, any individual, public social service agency, or public agency that provides services to individuals or families, law enforcement agency, coroner, or public entity that provided services to an individual whose death is the type of death specified by the director of health under section 3701.934 of the Revised Code shall provide information, data, records, and otherwise assist in the execution of sections 3701.93 to 3701.9314 of the Revised Code. 28058
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Sec. 3701.9310. Except as otherwise provided in section 3701.9212 of the Revised Code, all of the following are not public records under section 149.43 of the Revised Code, shall be confidential, and shall be published only in statistical form: 28067
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(A) Information, data, and records collected for use and maintained by the Ohio violent death reporting system including, but not limited to, medical records, law enforcement investigative records, coroner investigative records, laboratory reports, and other records concerning a decedent; 28071
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(B) Work products created in carrying out the purposes of the Ohio violent death reporting system. 28076
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Sec. 3701.9311. Information, data, and records collected for use and maintained by, and all work products created in carrying out the purposes of, the Ohio violent death reporting system shall not be subject to subpoena or discovery while in the possession of the system or admissible in any criminal or civil proceeding if 28078
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obtained through, or from, the system. 28083

Sec. 3701.9312. The director of health, pursuant to rules 28084
adopted in accordance with Chapter 119. of the Revised Code, shall 28085
establish standards and procedures to make available to 28086
researchers confidential information collected by the Ohio violent 28087
death reporting system. Researchers complying with those standards 28088
and procedures also shall comply with the confidentiality 28089
requirements of section 3701.9310 of the Revised Code. 28090

Sec. 3701.9314. The director of health may adopt rules in 28091
accordance with Chapter 119. of the Revised Code necessary to 28092
establish, maintain, and carry out the purposes of the Ohio 28093
violent death reporting system under sections 3701.93 to 3701.9314 28094
of the Revised Code. 28095

Sec. 3702.141. (A) As used in this section: 28096

(1) "Existing health care facility" means a health care 28097
facility that is licensed or otherwise approved to practice in 28098
this state, in accordance with applicable law, is staffed and 28099
equipped to provide health care services, and actively provides 28100
health services or has not been actively providing health services 28101
for less than twelve consecutive months. 28102

(2) "Freestanding birthing center" means any facility in 28103
which deliveries routinely occur, regardless of whether the 28104
facility is located on the campus of another health care facility, 28105
and which is not licensed under Chapter 3711. of the Revised Code 28106
as a level one, two, or three maternity unit or a limited 28107
maternity unit. 28108

(3) "~~Health care facility~~" and "~~health service~~" have the same 28109
~~meanings as in section 3702.51 of the Revised Code~~ means: 28110

<u>(a) A hospital registered under section 3701.07 of the Revised Code;</u>	28111
	28112
<u>(b) A nursing home licensed under section 3721.02 of the Revised Code, or by a political subdivision certified under section 3721.09 of the Revised Code;</u>	28113
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	28115
<u>(c) A county home or a county nursing home as defined in section 5155.31 of the Revised Code that is certified under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;</u>	28116
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<u>(d) A freestanding dialysis center;</u>	28120
<u>(e) A freestanding inpatient rehabilitation facility;</u>	28121
<u>(f) An ambulatory surgical facility;</u>	28122
<u>(g) A freestanding cardiac catheterization facility;</u>	28123
<u>(h) A freestanding birthing center;</u>	28124
<u>(i) A freestanding or mobile diagnostic imaging center;</u>	28125
<u>(j) A freestanding radiation therapy center.</u>	28126
<u>A health care facility does not include the offices of private physicians and dentists whether for individual or group practice, residential facilities licensed under section 5123.19 of the Revised Code, or an institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.</u>	28127
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<u>(4) "Health service" means a clinically related service, such</u>	28140

as a diagnostic, treatment, rehabilitative, or preventive service. 28141

(B) Section 3702.14 of the Revised Code shall not be 28142
construed to require any existing health care facility that is 28143
conducting an activity specified in section 3702.11 of the Revised 28144
Code, which activity was initiated on or before March 20, 1997, to 28145
alter, upgrade, or otherwise improve the structure or fixtures of 28146
the facility in order to comply with any rule adopted under 28147
section 3702.11 of the Revised Code relating to that activity, 28148
unless one of the following applies: 28149

(1) The facility initiates a construction, renovation, or 28150
reconstruction project that involves a capital expenditure of at 28151
least fifty thousand dollars, not including expenditures for 28152
equipment or staffing or operational costs, and that directly 28153
involves the area in which the existing service is conducted. 28154

(2) The facility initiates another activity specified in 28155
section 3702.11 of the Revised Code. 28156

~~(3) The facility initiates a service level designation change 28157
for obstetric and newborn care. 28158~~

~~(4) The facility proposes to add a cardiac catheterization 28159
laboratory to an existing cardiac catheterization service. 28160~~

~~(5)~~(4) The facility proposes to add an open-heart operating 28161
room to an existing open-heart surgery service. 28162

~~(6)~~(5) The director of health determines, by clear and 28163
convincing evidence, that failure to comply with the rule would 28164
create an imminent risk to the health and welfare of any patient. 28165

(C) If division (B)~~(4)~~(3) or ~~(5)~~(4) of this section applies, 28166
any alteration, upgrade, or other improvement required shall apply 28167
only to the proposed addition to the existing service if the cost 28168
of the addition is less than the capital expenditure threshold set 28169
forth in division (B)(1) of this section. 28170

(D) No person or government entity shall divide or otherwise
segment a construction, renovation, or reconstruction project in
order to evade application of the capital expenditure threshold
set forth in division (B)(1) of this section.

Sec. 3702.31. (A) The quality monitoring and inspection fund
is hereby created in the state treasury. The director of health
shall use the fund to administer and enforce this section and
sections 3702.11 to 3702.20, 3702.30, 3702.301, ~~and~~ 3702.32, and
3702.33 of the Revised Code and rules adopted pursuant to those
sections. The director shall deposit in the fund any moneys
collected pursuant to this section or section 3702.32 of the
Revised Code. All investment earnings of the fund shall be
credited to the fund.

(B) The director of health shall adopt rules pursuant to
Chapter 119. of the Revised Code establishing fees for both of the
following:

(1) Initial and renewal license applications submitted under
section 3702.30 of the Revised Code. The fees established under
division (B)(1) of this section shall not exceed the actual and
necessary costs of performing the activities described in division
(A) of this section.

(2) Inspections conducted under section 3702.15 or 3702.30 of
the Revised Code. The fees established under division (B)(2) of
this section shall not exceed the actual and necessary costs
incurred during an inspection, including any indirect costs
incurred by the department for staff, salary, or other
administrative costs. The director of health shall provide to each
health care facility or provider inspected pursuant to section
3702.15 or 3702.30 of the Revised Code a written statement of the
fee. The statement shall itemize and total the costs incurred.
Within fifteen days after receiving a statement from the director,

the facility or provider shall forward the total amount of the fee 28202
to the director. 28203

(3) The fees described in divisions (B)(1) and (2) of this 28204
section shall meet both of the following requirements: 28205

(a) For each service described in section 3702.11 of the 28206
Revised Code, the fee shall not exceed one thousand seven hundred 28207
fifty dollars annually, except that the total fees charged to a 28208
health care provider under this section shall not exceed five 28209
thousand dollars annually. 28210

(b) The fee shall exclude any costs reimbursable by the 28211
United States centers for medicare and medicaid services as part 28212
of the certification process for the medicare program established 28213
under Title XVIII of the "Social Security Act," 79 Stat. 286 28214
(1935), 42 U.S.C.A. 1395, as amended, and the medicaid program 28215
established under Title XIX of the "Social Security Act," 79 Stat. 28216
286 (1965), 42 U.S.C. 1396. 28217

(4) The director shall not establish a fee for any service 28218
for which a licensure or inspection fee is paid by the health care 28219
provider to a state agency for the same or similar licensure or 28220
inspection. 28221

Sec. 3702.51. As used in sections 3702.51 to 3702.62 of the 28222
Revised Code: 28223

(A) "Applicant" means any person that submits an application 28224
for a certificate of need and who is designated in the application 28225
as the applicant. 28226

(B) "Person" means any individual, corporation, business 28227
trust, estate, firm, partnership, association, joint stock 28228
company, insurance company, government unit, or other entity. 28229

(C) "Certificate of need" means a written approval granted by 28230
the director of health to an applicant to authorize conducting a 28231

reviewable activity. 28232

(D) "~~Health service~~ Service area" means ~~a geographic region~~ 28233
~~designated by the director of health under section 3702.58 of the~~ 28234
~~Revised Code~~ the current and projected primary and secondary 28235
service areas to which the long-term care facility is, or will be, 28236
providing long-term care services. 28237

(E) "~~Health~~ Primary service area" means ~~a clinically related~~ 28238
~~service, such as a diagnostic, treatment, rehabilitative, or~~ 28239
~~preventive service~~ the geographic region, usually comprised of the 28240
Ohio zip code in which the long-term care facility is located and 28241
contiguous zip codes, from which approximately seventy-five to 28242
eighty per cent of the facility's residents currently originate or 28243
are expected to originate. 28244

(F) "~~Health~~ Secondary service agency area" means ~~an agency~~ 28245
~~designated to serve a health service area in accordance with~~ 28246
~~section 3702.58 of the Revised Code~~ the geographic region, usually 28247
comprised of Ohio zip codes not included in the primary service 28248
area, excluding isolated exceptions, from which the facility's 28249
remaining residents currently originate or are expected to 28250
originate. 28251

(G) "~~Health care facility~~" means: 28252

~~(1) A hospital registered under section 3701.07 of the~~ 28253
~~Revised Code;~~ 28254

~~(2) A nursing home licensed under section 3721.02 of the~~ 28255
~~Revised Code, or by a political subdivision certified under~~ 28256
~~section 3721.09 of the Revised Code;~~ 28257

~~(3) A county home or a county nursing home as defined in~~ 28258
~~section 5155.31 of the Revised Code that is certified under Title~~ 28259
~~XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42~~ 28260
~~U.S.C.A. 301, as amended;~~ 28261

- ~~(4) A freestanding dialysis center;~~ 28262
- ~~(5) A freestanding inpatient rehabilitation facility;~~ 28263
- ~~(6) An ambulatory surgical facility;~~ 28264
- ~~(7) A freestanding cardiac catheterization facility;~~ 28265
- ~~(8) A freestanding birthing center;~~ 28266
- ~~(9) A freestanding or mobile diagnostic imaging center;~~ 28267
- ~~(10) A freestanding radiation therapy center.~~ 28268

~~A health care facility does not include the offices of private physicians and dentists whether for individual or group practice, residential facilities licensed under section 5123.19 of the Revised Code, or an institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.~~

~~(H) "Medical equipment" means a single unit of medical equipment or a single system of components with related functions that is used to provide health services.~~

~~(I) "Third-party payer" means a health insuring corporation licensed under Chapter 1751. of the Revised Code, a health maintenance organization as defined in division (K)(I) of this section, an insurance company that issues sickness and accident insurance in conformity with Chapter 3923. of the Revised Code, a state-financed health insurance program under Chapter 3701., 4123., or 5111. of the Revised Code, or any self-insurance plan.~~

~~(J)~~(H) "Government unit" means the state and any county, 28292
municipal corporation, township, or other political subdivision of 28293
the state, or any department, division, board, or other agency of 28294
the state or a political subdivision. 28295

~~(K)~~(I) "Health maintenance organization" means a public or 28296
private organization organized under the law of any state that is 28297
qualified under section 1310(d) of Title XIII of the "Public 28298
Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9. 28299

~~(L)~~(J) "Existing ~~health~~ long-term care facility" means either 28300
of the following: 28301

(1) A ~~health~~ long-term care facility that is licensed or 28302
otherwise authorized to operate in this state in accordance with 28303
applicable law, including a county home or a county nursing home 28304
that is certified ~~as of February 1, 2008,~~ under Title XVIII or 28305
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 28306
U.S.C. 301, as amended, is staffed and equipped to provide ~~health~~ 28307
long-term care services, and is actively providing ~~health~~ 28308
long-term care services; 28309

(2) A ~~health~~ long-term care facility that is licensed or 28310
otherwise authorized to operate in this state in accordance with 28311
applicable law, including a county home or a county nursing home 28312
that is certified ~~as of February 1, 2008,~~ under Title XVIII or 28313
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 28314
U.S.C. 301, as amended, or that has beds registered under section 28315
3701.07 of the Revised Code as skilled nursing beds or long-term 28316
care beds and has provided long-term care services for at least 28317
three hundred sixty-five consecutive days within the twenty-four 28318
months immediately preceding the date a certificate of need 28319
application is filed with the director of health. 28320

~~(M)~~(K) "State" means the state of Ohio, including, but not 28321
limited to, the general assembly, the supreme court, the offices 28322

of all elected state officers, and all departments, boards, 28323
offices, commissions, agencies, institutions, and other 28324
instrumentalities of the state of Ohio. "State" does not include 28325
political subdivisions. 28326

~~(N)~~(L) "Political subdivision" means a municipal corporation, 28327
township, county, school district, and all other bodies corporate 28328
and politic responsible for governmental activities only in 28329
geographic areas smaller than that of the state to which the 28330
sovereign immunity of the state attaches. 28331

~~(O)~~(M) "Affected person" means: 28332

(1) An applicant for a certificate of need, including an 28333
applicant whose application was reviewed comparatively with the 28334
application in question; 28335

(2) The person that requested the reviewability ruling in 28336
question; 28337

(3) Any person that resides or regularly uses ~~health~~ 28338
long-term care facilities within the ~~geographic~~ service area 28339
served or to be served by the ~~health~~ long-term care services that 28340
would be provided under the certificate of need or reviewability 28341
ruling in question; 28342

(4) Any ~~health~~ long-term care facility that is located in the 28343
~~health~~ service area where the ~~health~~ long-term care services would 28344
be provided under the certificate of need or reviewability ruling 28345
in question; 28346

(5) Third-party payers that reimburse ~~health~~ long-term care 28347
facilities for services in the ~~health~~ service area where the 28348
~~health~~ long-term care services would be provided under the 28349
certificate of need or reviewability ruling in question~~.~~ 28350

~~(6) Any other person who testified at a public hearing held 28351
under division (B) of section 3702.52 of the Revised Code or 28352~~

~~submitted written comments in the course of review of the~~ 28353
~~certificate of need application in question.~~ 28354

~~(P) "Osteopathic hospital" means a hospital registered under~~ 28355
~~section 3701.07 of the Revised Code that advocates osteopathic~~ 28356
~~principles and the practice and perpetuation of osteopathic~~ 28357
~~medicine by doing any of the following:~~ 28358

~~(1) Maintaining a department or service of osteopathic~~ 28359
~~medicine or a committee on the utilization of osteopathic~~ 28360
~~principles and methods, under the supervision of an osteopathic~~ 28361
~~physician;~~ 28362

~~(2) Maintaining an active medical staff, the majority of~~ 28363
~~which is comprised of osteopathic physicians;~~ 28364

~~(3) Maintaining a medical staff executive committee that has~~ 28365
~~osteopathic physicians as a majority of its members.~~ 28366

~~(Q) "Ambulatory surgical facility" has the same meaning as in~~ 28367
~~section 3702.30 of the Revised Code.~~ 28368

~~(R) Except as provided in division (S) of this section,~~ 28369
~~"reviewable activity" means any of the following activities:~~ 28370

~~(1) The establishment, development, or construction of a new~~ 28371
~~long term care facility;~~ 28372

~~(2) The replacement of an existing long term care facility;~~ 28373

~~(3) The renovation of a long term care facility that involves~~ 28374
~~a capital expenditure of two million dollars or more, not~~ 28375
~~including expenditures for equipment, staffing, or operational~~ 28376
~~costs;~~ 28377

~~(4) Either of the following changes in long term care bed~~ 28378
~~capacity:~~ 28379

~~(a) An increase in bed capacity;~~ 28380

~~(b) A relocation of beds from one physical facility or site~~ 28381

~~to another, excluding the relocation of beds within a long term
care facility or among buildings of a long term care facility at
the same site.~~ 28382
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~~(5) Any change in the health services, bed capacity, or site,
or any other failure to conduct the reviewable activity in
substantial accordance with the approved application for which a
certificate of need concerning long term care beds was granted, if
the change is made within five years after the implementation of
the reviewable activity for which the certificate was granted;~~ 28385
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~~(6) The expenditure of more than one hundred ten per cent of
the maximum expenditure specified in a certificate of need
concerning long term care beds.~~ 28391
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~~(S) "Reviewable activity" does not include any of the
following activities:~~ 28394
28395

~~(1) Acquisition of computer hardware or software;~~ 28396

~~(2) Acquisition of a telephone system;~~ 28397

~~(3) Construction or acquisition of parking facilities;~~ 28398

~~(4) Correction of cited deficiencies that are in violation of
federal, state, or local fire, building, or safety laws and rules
and that constitute an imminent threat to public health or safety;~~ 28399
28400
28401

~~(5) Acquisition of an existing health care facility that does
not involve a change in the number of the beds, by service, or in
the number or type of health services;~~ 28402
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~~(6) Correction of cited deficiencies identified by
accreditation surveys of the joint commission on accreditation of
healthcare organizations or of the American osteopathic
association;~~ 28405
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~~(7) Acquisition of medical equipment to replace the same or
similar equipment for which a certificate of need has been issued
if the replaced equipment is removed from service;~~ 28409
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(8) Mergers, consolidations, or other corporate reorganizations of health care facilities that do not involve a change in the number of beds, by service, or in the number or type of health services;	28412
	28413
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	28415
(9) Construction, repair, or renovation of bathroom facilities;	28416
	28417
(10) Construction of laundry facilities, waste disposal facilities, dietary department projects, heating and air conditioning projects, administrative offices, and portions of medical office buildings used exclusively for physician services;	28418
	28419
	28420
	28421
(11) Acquisition of medical equipment to conduct research required by the United States food and drug administration or clinical trials sponsored by the national institute of health. Use of medical equipment that was acquired without a certificate of need under division (S)(11) of this section and for which premarket approval has been granted by the United States food and drug administration to provide services for which patients or reimbursement entities will be charged shall be a reviewable activity.	28422
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(12) Removal of asbestos from a health care facility.	28431
Only that portion of a project that meets the requirements of this division is not a reviewable activity.	28432
	28433
(T) "Small rural hospital" means a hospital that is located within a rural area, has fewer than one hundred beds, and to which fewer than four thousand persons were admitted during the most recent calendar year.	28434
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	28437
(U) "Children's hospital" means any of the following:	28438
(1) A hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, and in which at least seventy five per cent of annual	28439
	28440
	28441

~~inpatient discharges for the preceding two calendar years were~~ 28442
~~individuals less than eighteen years of age;~~ 28443

~~(2) A distinct portion of a hospital registered under section~~ 28444
~~3701.07 of the Revised Code that provides general pediatric~~ 28445
~~medical and surgical care, has a total of at least one hundred~~ 28446
~~fifty registered pediatric special care and pediatric acute care~~ 28447
~~beds, and in which at least seventy five per cent of annual~~ 28448
~~inpatient discharges for the preceding two calendar years were~~ 28449
~~individuals less than eighteen years of age;~~ 28450

~~(3) A distinct portion of a hospital, if the hospital is~~ 28451
~~registered under section 3701.07 of the Revised Code as a~~ 28452
~~children's hospital and the children's hospital meets all the~~ 28453
~~requirements of division (U)(1) of this section.~~ 28454

~~(V)(N)~~ "Long-term care facility" means any of the following: 28455

(1) A nursing home licensed under section 3721.02 of the 28456
Revised Code or by a political subdivision certified under section 28457
3721.09 of the Revised Code; 28458

(2) The portion of any facility, including a county home or 28459
county nursing home, that is certified as a skilled nursing 28460
facility or a nursing facility under Title XVIII or XIX of the 28461
"Social Security Act"; 28462

(3) The portion of any hospital that contains beds registered 28463
under section 3701.07 of the Revised Code as skilled nursing beds 28464
or long-term care beds. 28465

~~(W)(O)~~ "Long-term care bed" or "bed" means a bed ~~in a~~ 28466
long term care facility that is categorized as one of the 28467
following: 28468

(1) A bed that is located in a facility that is a nursing 28469
home licensed under section 3721.02 of the Revised Code or a 28470
facility licensed by a political subdivision certified under 28471

section 3721.09 of the Revised Code and is included in the 28472
authorized maximum licensed capacity of the facility; 28473

(2) A bed that is located in the portion of any facility, 28474
including a county home or county nursing home, that is certified 28475
as a skilled nursing facility under the medicare program or a 28476
nursing facility under the medicaid program and is included in the 28477
authorized maximum certified capacity of that portion of the 28478
facility; 28479

(3) A bed that is registered under section 3701.07 of the 28480
Revised Code as a skilled nursing bed, a long-term care bed, or a 28481
special skilled nursing bed; 28482

(4) A bed in a county home or county nursing home that has 28483
been certified under section 5155.38 of the Revised Code as having 28484
been in operation on July 1, 1993, and is eligible for licensure 28485
as a nursing home bed; 28486

(5) A bed held as an approved bed under a certificate of need 28487
approved by the director. 28488

A bed cannot simultaneously be both a bed described in 28489
division (O)(1), (2), (3), or (4) of this section and a bed 28490
described in division (O)(5) of this section. 28491

~~(X) "Freestanding birthing center" means any facility in~~ 28492
~~which deliveries routinely occur, regardless of whether the~~ 28493
~~facility is located on the campus of another health care facility,~~ 28494
~~and which is not licensed under Chapter 3711. of the Revised Code~~ 28495
~~as a level one, two, or three maternity unit or a limited~~ 28496
~~maternity unit.~~ 28497

~~(Y)(1)(P) "Reviewability ruling" means a ruling issued by the~~ 28498
~~director of health under division (A) of section 3702.52 of the~~ 28499
~~Revised Code as to whether a particular proposed project is or is~~ 28500
~~not a reviewable activity.~~ 28501

~~(2) "Nonreviewability ruling" means a ruling issued under that division that a particular proposed project is not a reviewable activity.~~ 28502
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~~(Z)(1) "Metropolitan statistical area" means an area of this state designated a metropolitan statistical area or primary metropolitan statistical area in United States office of management and budget bulletin no. 93-17, June 30, 1993, and its attachments.~~ 28505
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~~(2) "Rural area" means any area of this state not located within a metropolitan statistical area.~~ 28510
28511

~~(AA)(Q)~~ (Q) "County nursing home" has the same meaning as in section 5155.31 of the Revised Code. 28512
28513

~~(BB)(R)~~ (R) "Principal participant" means both of the following: 28514

(1) A person who has an ownership or controlling interest of at least five per cent in an applicant, in a ~~health~~ long-term care facility that is the subject of an application for a certificate of need, or in the owner or operator of the applicant or such a facility; 28515
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(2) An officer, director, trustee, or general partner of an applicant, of a ~~health~~ long-term care facility that is the subject of an application for a certificate of need, or of the owner or operator of the applicant or such a facility. 28520
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~~(CC)(S)~~ (S) "Actual harm but not immediate jeopardy deficiency" means a deficiency that, under 42 C.F.R. 488.404, either constitutes a pattern of deficiencies resulting in actual harm that is not immediate jeopardy or represents widespread deficiencies resulting in actual harm that is not immediate jeopardy. 28524
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~~(DD)(T)~~ (T) "Immediate jeopardy deficiency" means a deficiency that, under 42 C.F.R. 488.404, either constitutes a pattern of 28530
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deficiencies resulting in immediate jeopardy to resident health or 28532
safety or represents widespread deficiencies resulting in 28533
immediate jeopardy to resident health or safety. 28534

(U) "Existing bed" or "existing long-term care bed" means a 28535
bed from an existing long-term care facility, a bed described in 28536
division (O)(5) of this section, or a bed correctly reported as a 28537
long-term care bed pursuant to section 5155.38 of the Revised 28538
Code. 28539

Sec. 3702.511. (A) Except as provided in division (B) of this 28540
section, the following activities are reviewable under sections 28541
3702.51 to 3702.62 of the Revised Code: 28542

(1) Establishment, development, or construction of a new 28543
long-term care facility; 28544

(2) Replacement of an existing long-term care facility; 28545

(3) Renovation of or addition to a long-term care facility 28546
that involves a capital expenditure of two million dollars or 28547
more, not including expenditures for equipment, staffing, or 28548
operational costs; 28549

(4) Either of the following changes in long-term care bed 28550
capacity: 28551

(a) An increase in bed capacity; 28552

(b) A relocation of beds from one physical facility or site 28553
to another, excluding relocation of beds within a long-term care 28554
facility or among buildings of a long-term care facility at the 28555
same site. 28556

(5) Any change in the bed capacity or site, or any other 28557
failure to conduct a reviewable activity in substantial accordance 28558
with the approved application for which a certificate of need 28559
concerning long-term care beds was granted, if the change is made 28560
within five years after the implementation of the reviewable 28561

<u>activity for which the certificate was granted;</u>	28562
<u>(6) Expenditure of more than one hundred ten per cent of the</u>	28563
<u>maximum expenditure specified in a certificate of need concerning</u>	28564
<u>long-term care beds.</u>	28565
<u>(B) The following activities are not subject to review under</u>	28566
<u>sections 3702.51 to 3702.62 of the Revised Code:</u>	28567
<u>(1) Acquisition of computer hardware or software;</u>	28568
<u>(2) Acquisition of a telephone system;</u>	28569
<u>(3) Construction or acquisition of parking facilities;</u>	28570
<u>(4) Correction of cited deficiencies that constitute an</u>	28571
<u>imminent threat to public health or safety and are in violation of</u>	28572
<u>federal, state, or local fire, building, or safety statutes,</u>	28573
<u>ordinances, rules, or regulations;</u>	28574
<u>(5) Acquisition of an existing long-term care facility that</u>	28575
<u>does not involve a change in the number of the beds;</u>	28576
<u>(6) Mergers, consolidations, or other corporate</u>	28577
<u>reorganizations of long-term care facilities that do not involve a</u>	28578
<u>change in the number of beds;</u>	28579
<u>(7) Construction, repair, or renovation of bathroom</u>	28580
<u>facilities;</u>	28581
<u>(8) Construction of laundry facilities, waste disposal</u>	28582
<u>facilities, dietary department projects, heating and air</u>	28583
<u>conditioning projects, administrative offices, and portions of</u>	28584
<u>medical office buildings used exclusively for physician services;</u>	28585
<u>(9) Removal of asbestos from a health care facility.</u>	28586
<u>Only that portion of a project that is described in this</u>	28587
<u>division is not reviewable.</u>	28588
Sec. 3702.52. The director of health shall administer a state	28589

certificate of need program in accordance with sections 3702.51 to 28590
3702.62 of the Revised Code and rules adopted under those 28591
sections. 28592

(A) The director shall issue rulings on whether a particular 28593
proposed project is a reviewable activity. The director shall 28594
issue a ruling not later than forty-five days after receiving a 28595
request for a ruling accompanied by the information needed to make 28596
the ruling. If the director does not issue a ruling in that time, 28597
the project shall be considered to have been ruled not a 28598
reviewable activity. 28599

(B)(1) Each application for a certificate of need shall be 28600
submitted to the director on forms and in the manner prescribed by 28601
the director. Each application shall include a plan for obligating 28602
the capital expenditures or implementing the proposed project on a 28603
timely basis in accordance with section ~~3702.525~~ 3702.524 of the 28604
Revised Code. Each application shall also include all other 28605
information required by rules adopted under division (B) of 28606
section 3702.57 of the Revised Code. 28607

(2) Each application shall be accompanied by the application 28608
fee established in rules adopted under division (G) of section 28609
3702.57 of the Revised Code. Application fees received by the 28610
director under this division shall be deposited into the state 28611
treasury to the credit of the certificate of need fund, which is 28612
hereby created. The director shall use the fund only to pay the 28613
costs of administering sections 3702.11 to 3702.20, 3702.30, and 28614
3702.51 to 3702.62 of the Revised Code and rules adopted under 28615
those sections. An application fee is nonrefundable unless the 28616
director determines that the application cannot be accepted. 28617

(3) The director shall review applications for certificates 28618
of need. As part of a review, the director shall determine whether 28619
an application is complete. The director shall not consider an 28620
application to be complete unless the application meets all 28621

criteria for a complete application specified in rules adopted 28622
under section 3702.57 of the Revised Code. The director shall mail 28623
to the applicant a written notice that the application is 28624
complete, or a written request for additional information, not 28625
later than thirty days after receiving an application or a 28626
response to an earlier request for information. Except as provided 28627
in section ~~3702.523~~ 3702.522 of the Revised Code, the director 28628
shall not make more than two requests for additional information. 28629
The director's determination that an application is not complete 28630
is final and not subject to appeal. 28631

~~The director may conduct a public informational hearing in 28632
the course of reviewing any application for a certificate of need, 28633
and shall conduct one if requested to do so by any affected person 28634
not later than fifteen days after the director mails the notice 28635
that the application is complete. The hearing shall be conducted 28636
in the community in which the activities authorized by the 28637
certificate of need would be carried out. Any affected person may 28638
testify at the hearing. The director may, with the health service 28639
agency's consent, designate a health service agency to conduct the 28640
hearing.~~ 28641

(4) ~~Except during a public hearing or as necessary to comply 28642
with a subpoena issued under division ~~(E)~~(F) of this section, 28643
after a notice of completeness has been received, no person shall 28644
make revisions to information that was submitted to the director 28645
before the director mailed the notice of completeness or knowingly 28646
discuss in person or by telephone the merits of the application 28647
with the director. A person may supplement an application after a 28648
notice of completeness has been received by submitting clarifying 28649
information to the director. ~~If one or more persons request a 28650
meeting in person or by telephone, the director shall make a 28651
reasonable effort to invite interested parties to the meeting or 28652
conference call.~~ 28653~~

(C) All of the following apply to the process of granting or 28654
denying a certificate of need: 28655

(1) If the project proposed in a certificate of need 28656
application meets all of the applicable certificate of need 28657
criteria for approval under sections 3702.51 to 3702.62 of the 28658
Revised Code and the rules adopted under those sections, the 28659
director shall grant a certificate of need for all or part of the 28660
project that is the subject of the application by the applicable 28661
deadline specified in division (C)(4) of this section or any 28662
extension of it under division (C)(5) of this section. 28663

(2) The director's grant of a certificate of need does not 28664
affect, and sets no precedent for, the director's decision to 28665
grant or deny other applications for similar reviewable activities 28666
~~proposed to be conducted in the same or different health service~~ 28667
~~areas.~~ 28668

(3) ~~If the director receives written objections to an~~ 28669
~~application from any~~ Any affected person may submit written 28670
comments regarding an application. The director shall consider all 28671
written comments received by the thirtieth day after mailing the 28672
notice of completeness, ~~the director shall notify the applicant~~ 28673
~~and assign a hearing examiner to conduct an adjudication hearing~~ 28674
~~concerning the application in accordance with Chapter 119. of the~~ 28675
~~Revised Code. In or, in~~ the case of applications under comparative 28676
review, ~~if the director receives written objections to any of the~~ 28677
~~applications from any affected person~~ by the thirtieth day after 28678
the director mails the last notice of completeness, ~~the director~~ 28679
~~shall notify all of the applicants and appoint a hearing examiner~~ 28680
~~to conduct a consolidated adjudication hearing concerning the~~ 28681
~~applications in accordance with Chapter 119. of the Revised Code.~~ 28682
~~The hearing examiner shall be employed by or under contract with~~ 28683
~~the department of health.~~ 28684

~~The adjudication hearings may be conducted in the health~~ 28685

~~service area in which the reviewable activity is proposed to be 28686
conducted. Consolidated adjudication hearings for applications in 28687
comparative review may be conducted in the geographic region in 28688
which all of the reviewable activities will be conducted. The 28689
applicant, the director, and the affected persons that filed 28690
objections to the application shall be parties to the hearing. If 28691
none of the affected persons that submitted written objections to 28692
the application appears or prosecutes the hearing, the hearing 28693
examiner shall dismiss the hearing and the director shall grant a 28694
certificate of need for all or part of the project that is the 28695
subject of the application if the proposed project meets all of 28696
the applicable certificate of need criteria for approval under 28697
sections 3702.51 to 3702.62 of the Revised Code and the rules 28698
adopted under those sections. The affected persons bear the burden 28699
of proving by a preponderance of evidence that the project is not 28700
needed or that granting the certificate would not be in accordance 28701
with sections 3702.51 to 3702.62 of the Revised Code or the rules 28702
adopted under those sections. 28703~~

(4) Except as provided in division (C)(5) of this section, 28704
the director shall grant or deny certificate of need applications 28705
~~for which an adjudication hearing is not conducted under division 28706
(C)(3) of this section not later than sixty days after mailing the 28707
notice of completeness or, in the case of an application proposing 28708
addition of long term care beds, not later than sixty days after 28709
such other time as is specified in rules adopted under section 28710
3702.57 of the Revised Code. Except as provided in division (C)(5) 28711
of this section, the director shall grant or deny certificate of 28712
need applications for which an adjudication hearing is conducted 28713
under division (C)(3) of this section not later than thirty days 28714
after the expiration of the time for filing objections to the 28715
report and recommendation of the hearing examiner under section 28716
119.09 of the Revised Code. The director shall base decisions 28717
concerning applications for which an adjudication hearing is 28718~~

~~conducted under division (C)(3) of this section on the report and
recommendations of the hearing examiner.~~ 28719
28720

(5) Except as otherwise provided in division (C)(6) of this 28721
section, the director or the applicant may extend the deadline 28722
prescribed in division (C)(4) of this section once, for no longer 28723
than thirty days, by written notice before the end of the deadline 28724
prescribed by division (C)(4) of this section. An extension by the 28725
director under division (C)(5) of this section shall apply to all 28726
applications that are in comparative review. 28727

(6) No applicant in a comparative review may extend the 28728
deadline specified in division (C)(4) of this section. 28729

(7) If the director does not grant or deny the certificate by 28730
the applicable deadline specified in division (C)(4) of this 28731
section or any extension of it under division (C)(5) of this 28732
section, the certificate shall be considered to have been granted. 28733

(8) In granting a certificate of need, the director shall 28734
specify as the maximum capital expenditure the certificate holder 28735
may obligate under the certificate a figure equal to one hundred 28736
ten per cent of the approved project cost. 28737

(9) In granting a certificate of need, the director may grant 28738
the certificate with conditions that must be met by the holder of 28739
the certificate. 28740

(D) When a certificate of need application is approved for a 28741
project under which the beds are relocated, a number of beds equal 28742
to the number relocated shall cease to be operated in the 28743
long-term care facility from which they were relocated, except 28744
that the beds may continue to be operated for not more than 28745
fifteen days to allow relocation of residents to the facility to 28746
which the beds have been relocated. Notwithstanding section 28747
3721.03 of the Revised Code, if the relocated beds are in a home 28748
licensed under Chapter 3721. of the Revised Code, the facility's 28749

license is automatically reduced by the number of beds relocated 28750
effective fifteen days after the beds are relocated. If the beds 28751
are in a facility that is certified as a skilled nursing facility 28752
or nursing facility under Title XVIII or XIX of the "Social 28753
Security Act," the certification for the beds shall be 28754
surrendered. If the beds are registered under section 3701.07 of 28755
the Revised Code as skilled nursing beds or long-term care beds, 28756
the director shall remove the beds from registration not later 28757
than fifteen days after the beds are relocated. 28758

(E) The director shall monitor the activities of persons 28759
granted certificates of need during the period beginning with the 28760
granting of the certificate of need and ending five years after 28761
implementation of the activity for which the certificate was 28762
granted. 28763

~~(E)~~(F) When reviewing applications for certificates of need, 28764
considering appeals under section 3702.60 of the Revised Code, or 28765
monitoring activities of persons granted certificates of need, the 28766
director may issue and enforce, in the manner provided in section 28767
119.09 of the Revised Code, subpoenas and subpoenas duces tecum to 28768
compel ~~the production of a person to testify and produce~~ documents 28769
relevant to review of the application, consideration of the 28770
appeal, or monitoring of the activities. In addition, the director 28771
or the director's designee, ~~which may include a health service~~ 28772
~~agency,~~ may visit the sites where the activities are or will be 28773
conducted. 28774

~~(F)~~(G) The director may withdraw certificates of need. 28775

~~(G)~~ The director shall conduct, on a regular basis, health 28776
system data collection and analysis activities and prepare 28777
reports. The director shall make recommendations based upon these 28778
activities to the public health council concerning the adoption of 28779
appropriate rules under section 3702.57 of the Revised Code. (H) 28780
All health long-term care facilities and other health care 28781

~~providers~~ shall submit to the director, upon request, any 28782
information prescribed by rules adopted under division (H) of 28783
section 3702.57 of the Revised Code that is necessary to conduct 28784
reviews of certificate of need applications and to develop 28785
~~recommendations for criteria for reviews, and that is prescribed~~ 28786
~~by rules adopted under division (H) of section 3702.57 of the~~ 28787
~~Revised Code.~~ 28788

~~(H)~~(I) Any decision to grant or deny a certificate of need 28789
shall consider the special needs and circumstances resulting from 28790
moral and ethical values and the free exercise of religious rights 28791
of ~~health~~ long-term care facilities administered by religious 28792
organizations, and the special needs and circumstances of inner 28793
city and rural communities. 28794

Sec. ~~3702.522~~ 3702.521. (A) Reviews of applications for 28795
certificates of need to recategorize hospital beds to skilled 28796
nursing beds shall be conducted in accordance with this division 28797
and rules adopted by the ~~public~~ director of health ~~council~~. 28798

(1) No hospital recategorizing beds shall apply for a 28799
certificate of need for more than twenty skilled nursing beds. 28800

(2) No beds for which a certificate of need is requested 28801
under this division shall be reviewed under or counted in any 28802
formula developed under ~~public health council~~ rules adopted by the 28803
director for the purpose of determining the number of long-term 28804
care beds that may be needed within the state. 28805

(3) No beds shall be approved under this division unless the 28806
hospital certifies and demonstrates in the application that the 28807
beds will be dedicated to patients with a length of stay of no 28808
more than thirty days. 28809

(4) No beds shall be approved under this division unless the 28810
hospital can satisfactorily demonstrate in the application that it 28811

is routinely unable to place the patients planned for the beds in 28812
accessible skilled nursing facilities. 28813

(5) In developing rules to implement this division, the 28814
~~public health council~~ director shall give special attention to the 28815
required documentation of the need for such beds, including the 28816
efforts made by the hospital to place patients in suitable skilled 28817
nursing facilities, and special attention to the appropriate size 28818
of units with such beds given the historical pattern of the 28819
applicant hospital's documented difficulty in placing skilled 28820
nursing patients. 28821

(B) ~~To assist the director of health~~ For assistance in 28822
monitoring the use of hospital beds recategorized as skilled 28823
nursing beds after August 5, 1989, the ~~public health council~~ 28824
director shall adopt rules specifying appropriate quarterly 28825
procedures for reporting to the department of health. 28826

(C) A patient may stay in a hospital bed that, after August 28827
5, 1989, has been recategorized as a skilled nursing bed for more 28828
than thirty days if the hospital is able to demonstrate that it 28829
made a good faith effort to place the patient in an accessible 28830
skilled nursing facility acceptable to the patient within the 28831
thirty-day period, but was unable to do so. 28832

(D) No hospital bed recategorized after August 5, 1989, as a 28833
skilled nursing bed shall be covered by a provider agreement under 28834
the medical assistance program established under Chapter 5111. of 28835
the Revised Code. 28836

(E) Nothing in this section requires a hospital to place a 28837
patient in any nursing home if the patient does not wish to be 28838
placed in the nursing home. Nothing in this section limits the 28839
ability of a hospital to file a certificate of need application 28840
for the addition of long-term care beds that meet the definition 28841
of "home" in section 3721.01 of the Revised Code. Nothing in this 28842

section limits the ability of the director to grant certificates 28843
of need necessary for hospitals to engage in demonstration 28844
projects authorized by the federal government for the purpose of 28845
enhancing long-term quality of care and cost containment. Nothing 28846
in this section limits the ability of hospitals to develop swing 28847
bed programs in accordance with federal regulations. 28848

No hospital that is granted a certificate of need after 28849
August 5, 1989, to recategorize hospital beds as skilled nursing 28850
beds is subject to sections 3721.01 to 3721.09 of the Revised 28851
Code. If the portion of the hospital in which the recategorized 28852
beds are located is certified as a skilled nursing facility under 28853
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 28854
U.S.C.A. 301, as amended, that portion of the hospital is subject 28855
to sections 3721.10 to 3721.17 and sections 3721.21 to 3721.34 of 28856
the Revised Code. If the beds are registered pursuant to section 28857
3701.07 of the Revised Code as long-term care beds, the beds are 28858
subject to sections 3721.50 to 3721.58 of the Revised Code. 28859

~~(F) The public health council shall adopt rules authorizing 28860
the creation of one or more nursing home placement clearinghouses. 28861
Any public or private agency or facility may apply to the 28862
department of health to serve as a nursing home placement 28863
clearinghouse, and the rules shall provide the procedure for 28864
application and process for designation of clearinghouses. 28865~~

~~The department may approve one or more clearinghouses, but in 28866
no event shall there be more than one nursing home placement 28867
clearinghouse in each county. Any nursing home may list with a 28868
nursing home placement clearinghouse the services it provides and 28869
the types of patients it is approved for and equipped to serve. 28870
The clearinghouse shall make reasonable efforts to update its 28871
information at least every six months. 28872~~

~~If an appropriate clearinghouse has been designated, each 28873
hospital granted a certificate of need after August 5, 1989, to 28874~~

~~reclassify hospital beds as skilled nursing beds shall, and any other hospital may, utilize the nursing home placement clearinghouse prior to admitting a patient to a skilled nursing bed within the hospital and prior to keeping a patient in a skilled nursing bed within a hospital in excess of thirty days.~~

~~The department shall provide at least annually to all hospitals a list of the designated nursing home placement clearinghouses.~~

Sec. ~~3702.523~~ 3702.522. A person who has an application for a certificate of need pending with the director of health may revise the application to change the site of the proposed project unless either of the following applies:

(A) The director, under section 3702.52 of the Revised Code, has mailed the applicant a written notice that the application is complete.

(B) The application is subject to a comparative review under section 3702.593 of the Revised Code.

The only revision that may be made in the revised application is the site of the proposed project. The revised site of the proposed project must be located in the same county as the site of the proposed project specified in the original application. The director may not accept a revised application if it includes revisions other than the site of the proposed project or if the revised site is located in a different county than the county in which the site specified in the original application is located.

A revised application shall be accompanied by an additional, ~~non-refundable~~ nonrefundable fee equal to twenty-five per cent of the fee charged under section 3702.52 of the Revised Code for the original application. The additional fee shall be deposited into the certificate of need fund created under section 3702.52 of the

Revised Code. 28905

On acceptance of a revised application, the director shall 28906
continue to review the application as revised in accordance with 28907
section 3702.52 of the Revised Code to determine whether it is 28908
complete and, if necessary and regardless of whether the director 28909
previously made two requests for additional information, may make 28910
a final written request to the applicant for additional 28911
information not later than thirty days after the date the director 28912
accepts the revised application. 28913

Sec. ~~3702.524~~ 3702.523. (A) Except as provided in division 28914
(B) of this section, a certificate of need ~~granted on or after~~ 28915
~~April 20, 1995,~~ is not transferable prior to the completion of the 28916
reviewable activity for which it was granted. If any person 28917
holding a certificate of need ~~issued on or after that date~~ 28918
transfers the certificate of need to another person before the 28919
reviewable activity is completed, or enters into an agreement that 28920
contemplates the transfer of the certificate of need on the 28921
completion of the reviewable activity, the certificate of need is 28922
void. If the controlling interest in an entity that holds a 28923
certificate of need ~~issued on or after that date~~ is transferred 28924
prior to the completion of the reviewable activity, the 28925
certificate of need is void. 28926

(B) Division (A) of this section does not prohibit the 28927
transfer of a certificate of need ~~issued on or after April 20,~~ 28928
~~1995,~~ between affiliated or related persons, as defined in rules 28929
adopted under section 3702.57 of the Revised Code, if the transfer 28930
does not result in a change in the person that holds the ultimate 28931
controlling interest, as defined in the rules, in the certificate 28932
of need. 28933

The transfer of a ~~health~~ long-term care facility after the 28934
completion of a reviewable activity for which a certificate of 28935

need was issued ~~on or after April 20, 1995,~~ is not a transfer of 28936
the certificate of need, unless the facility is transferred 28937
pursuant to an agreement entered into prior to the completion of 28938
the reviewable activity. 28939

Sec. ~~3702.525~~ 3702.524. (A) Not later than twenty-four months 28940
after the date the director of health mails the notice that the 28941
certificate of need has been granted or, if the grant or denial of 28942
the certificate of need is appealed under section 3702.60 of the 28943
Revised Code, not later than twenty-four months after issuance of 28944
an order granting the certificate that is not subject to further 28945
appeal, each person holding a certificate of need granted ~~on or~~ 28946
~~after April 20, 1995,~~ shall: 28947

(1) If the project for which the certificate of need was 28948
granted primarily involves construction and is to be financed 28949
primarily through external borrowing of funds, secure financial 28950
commitment for the stated purpose of developing the project and 28951
commence construction that continues uninterrupted except for 28952
interruptions or delays that are unavoidable due to reasons beyond 28953
the person's control, including labor strikes, natural disasters, 28954
material shortages, or comparable events; 28955

(2) If the project for which the certificate of need was 28956
granted primarily involves construction and is to be financed 28957
primarily internally, receive formal approval from the holder's 28958
board of directors or trustees or other governing authority to 28959
commit specified funds for implementation of the project and 28960
commence construction that continues uninterrupted except for 28961
interruptions or delays that are unavoidable due to reasons beyond 28962
the person's control, including labor strikes, natural disasters, 28963
material shortages, or comparable events; 28964

(3) ~~If the project for which the certificate of need was~~ 28965
~~granted primarily involves acquisition of medical equipment, enter~~ 28966

~~into a contract to purchase or lease the equipment and to accept~~ 28967
~~the equipment at the site for which the certificate was granted.~~ 28968

~~(4)~~ If the project for which the certificate of need was 28969
granted involves no capital expenditure or only minor renovations 28970
to existing structures, provide the health long-term care service 28971
~~or activity~~ by the means specified in the approved application for 28972
the certificate; 28973

~~(5)~~(4) If the project for which the certificate of need was 28974
granted primarily involves leasing a building or space that 28975
requires only minor renovations to the existing space, execute a 28976
lease and provide the health long-term care service ~~or activity~~ by 28977
the means specified in the approved application for the 28978
certificate; 28979

~~(6)~~(5) If the project for which the certificate of need was 28980
granted primarily involves leasing a building or space that has 28981
not been constructed or requires substantial renovations to 28982
existing space, commence construction for the purpose of 28983
implementing the reviewable activity that continues uninterrupted 28984
except for interruptions or delays that are unavoidable due to 28985
reasons beyond the person's control, including labor strikes, 28986
natural disasters, material shortages, or comparable events. 28987

(B) The twenty-four-month period specified in division (A) of 28988
this section shall not be extended by any means, including the 28989
granting of a subsequent or replacement certificate of need. Each 28990
person holding a certificate of need ~~granted on or after April 20,~~ 28991
~~1995,~~ shall provide the director of health documentation of 28992
compliance with that division not later than the earlier of thirty 28993
days after complying with that division or five days after the 28994
twenty-four-month period expires. Not later than the earlier of 28995
fifteen days after receiving the documentation or fifteen days 28996
after the twenty-four-month period expires, the director shall 28997
send by certified mail a notice to the holder of the certificate 28998

of need specifying whether the holder has complied with division 28999
(A) of this section. 29000

~~(C) Notwithstanding division (B) of this section, the 29001
twenty-four month period specified in division (A) of this section 29002
shall be extended for an additional twenty-four months for any 29003
certificate of need granted for the purchase and relocation of 29004
licensed nursing home beds on February 26, 1999. 29005~~

~~(D) A certificate of need granted on or after April 20, 1995, 29006
expires, regardless of whether the director sends a notice under 29007
division (B) of this section, if the holder fails to comply with 29008
division (A) or (C) of this section or to provide information 29009
under division (B) of this section as necessary for the director 29010
to determine compliance. The determination by the director that a 29011
certificate of need has expired is final and not appealable under 29012
Chapter 119. of the Revised Code. 29013~~

~~**Sec. 3702.526 3702.525.** Every six months after complying with 29014
section ~~3702.525~~ 3702.524 of the Revised Code, the holder of the 29015
certificate of need shall demonstrate to the director of health, 29016
in the form and manner required by rules adopted under section 29017
3702.57 of the Revised Code, that reasonable progress is being 29018
made toward the completion of the reviewable activity. If the 29019
director determines, in accordance with standards specified in the 29020
rules, that reasonable progress is not being made, ~~he~~ the director 29021
shall withdraw the certificate of need. 29022~~

~~**Sec. 3702.526.** (A) Except as provided in division (B) of this 29023
section, the director of health shall accept an application for a 29024
replacement certificate of need for an activity described in 29025
division (A)(5) of section 3702.511 of the Revised Code to replace 29026
an approved certificate of need for that activity if all of the 29027
following conditions are met: 29028~~

(1) The applicant is the same as the applicant for the approved certificate of need or an affiliated or related person as described in division (B) of section 3702.523 of the Revised Code. 29029
29030
29031

(2) The source of any long-term care beds to be relocated is the same as in the approved certificate of need. 29032
29033

(3) The application for the approved certificate of need was not subject to comparative review under section 3702.593 of the Revised Code. 29034
29035
29036

(B) The director shall not accept an application for a replacement certificate that proposes to increase the number of long-term care beds to be relocated specified in the application for the approved certificate of need. 29037
29038
29039
29040

(C) For the purpose of determining whether long-term care beds are from an existing long-term care facility, the director shall consider the date of filing of the application for a replacement certificate to be the same as the date of filing of the original application for the approved certificate of need. 29041
29042
29043
29044
29045

(D) Any long-term care beds that were approved in the approved certificate of need remain approved in the application for a replacement certificate. 29046
29047
29048

(E) The applicant shall submit with the application for a replacement certificate a nonrefundable fee equal to the application fee for the approved certificate of need. 29049
29050
29051

(F) Upon approval of the application for a replacement certificate, the original certificate of need is automatically voided. 29052
29053
29054

Sec. 3702.527. A bed described in division (O)(5) of section 3702.51 of the Revised Code may be converted to a bed described in division (O)(1), (2), (3), or (4) of that section only as provided in the certificate of need under which the beds were approved or 29055
29056
29057
29058

its replacement certificate of need. 29059

Sec. 3702.53. (A) No person shall carry out any reviewable 29060
activity unless a certificate of need for such activity has been 29061
granted under sections 3702.51 to 3702.62 of the Revised Code or 29062
the person is exempted by division ~~(S)~~(B) of section ~~3702.51~~ 29063
3702.511 or section ~~3702.5210~~ or 3702.62 of the Revised Code from 29064
the requirement that a certificate of need be obtained. No person 29065
shall carry out any reviewable activity if a certificate of need 29066
authorizing that activity has been withdrawn by the director of 29067
health under section 3702.52 or ~~3702.526~~ 3702.525 of the Revised 29068
Code. No person shall carry out a reviewable activity if the 29069
certificate of need authorizing that activity is void pursuant to 29070
section ~~3702.524~~ 3702.523 of the Revised Code or has expired 29071
pursuant to section ~~3702.525~~ 3702.524 of the Revised Code. 29072

(B) No person shall separate portions of any proposal for any 29073
reviewable activity to evade the requirements of sections 3702.51 29074
to 3702.62 of the Revised Code. 29075

(C) No person granted a certificate of need shall carry out 29076
the reviewable activity authorized by the certificate of need 29077
other than in substantial accordance with the approved application 29078
for the certificate of need. 29079

Sec. 3702.531. The director of health shall evaluate and may 29080
investigate evidence that appears to demonstrate that any person 29081
has violated section 3702.53 of the Revised Code. If the director 29082
elects to conduct an investigation, ~~he~~ the director shall mail to 29083
the alleged violator by certified mail, return receipt requested, 29084
a notice that an investigation is underway. 29085

When conducting an investigation under this section, the 29086
director may request any relevant information pertaining to the 29087
alleged violation, including the total operating cost of the 29088

activity in question during the period of the alleged violation 29089
and the total capital cost associated with implementation of the 29090
activity. A person shall provide information requested by the 29091
director not later than forty-five days after receiving the 29092
director's request. The director also may issue and enforce, in 29093
the manner provided in Chapter 119. of the Revised Code, subpoenas 29094
duces tecum to compel the production of documents relevant to the 29095
alleged violation. The subpoenas may be served in any manner 29096
authorized by the rules of civil procedure. 29097

The director or ~~his~~ the director's designee, ~~which may~~ 29098
~~include a health service agency,~~ may conduct a site visit to 29099
investigate an alleged violation of section 3702.53 of the Revised 29100
Code. 29101

Each investigation under this section shall be conducted in a 29102
manner that protects patient confidentiality. Names or other 29103
identifying information about any patient shall not be made public 29104
without the written consent of the patient or ~~his~~ the patient's 29105
guardian, or, if the patient is a minor, ~~his~~ the patient's parent 29106
or guardian. 29107

Sec. 3702.54. Except as provided in section 3702.541 of the 29108
Revised Code, divisions (A) and (B) of this section apply when the 29109
director of health determines that a person has violated section 29110
3702.53 of the Revised Code. 29111

(A) The director shall impose a civil penalty on the person 29112
in an amount equal to the greatest of the following: 29113

(1) Three thousand dollars; 29114

(2) Five per cent of the operating cost of the activity that 29115
constitutes the violation during the period of time it was 29116
conducted in violation of section 3702.53 of the Revised Code; 29117

(3) If a certificate of need was granted, two per cent of the 29118

total approved capital cost associated with implementation of the 29119
activity for which the certificate of need was granted. 29120

In no event, however, shall the penalty exceed two hundred 29121
fifty thousand dollars. 29122

(B)(1) Notwithstanding section 3702.52 of the Revised Code, 29123
the director shall refuse to accept for review any application for 29124
a certificate of need filed by or on behalf of the person, or any 29125
successor to the person or entity related to the person, for a 29126
period of not less than one year and not more than three years 29127
after the director mails the notice of the director's 29128
determination under section 3702.532 of the Revised Code or, if 29129
the determination is appealed under section 3702.60 of the Revised 29130
Code, the issuance of the order upholding the determination that 29131
is not subject to further appeal. In determining the length of 29132
time during which applications will not be accepted, the director 29133
may consider any of the following: 29134

(a) The nature and magnitude of the violation; 29135

(b) The ability of the person to have averted the violation; 29136

(c) Whether the person disclosed the violation to the 29137
director before the director commenced his investigation; 29138

(d) The person's history of compliance with sections 3702.51 29139
to 3702.62 and the rules adopted under section 3702.57 of the 29140
Revised Code; 29141

(e) Any community hardship that may result from refusing to 29142
accept future applications from the person. 29143

(2) Notwithstanding the one-year minimum imposed by division 29144
(B)(1) of this section, the director may establish a period of 29145
less than one year during which the director will refuse to accept 29146
certificate of need applications if, after reviewing all 29147
information available to the director, the director determines and 29148

expressly indicates in the notice mailed under section 3702.532 of 29149
the Revised Code that refusing to accept applications for a longer 29150
period would result in hardship to the community in which the 29151
person provides ~~health~~ long-term care services. The director's 29152
finding of community hardship shall not affect the granting or 29153
denial of any future certificate of need application filed by the 29154
person. 29155

Sec. 3702.55. A person that the director of health determines 29156
has violated section 3702.53 of the Revised Code shall cease 29157
conducting the activity that constitutes the violation or 29158
utilizing the ~~equipment~~ or facility resulting from the violation 29159
not later than thirty days after the person receives the notice 29160
mailed under section 3702.532 of the Revised Code or, if the 29161
person appeals the director's determination under section 3702.60 29162
of the Revised Code, thirty days after the person receives an 29163
order upholding the director's determination that is not subject 29164
to further appeal. 29165

If any person determined to have violated section 3702.53 of 29166
the Revised Code fails to cease conducting an activity or using 29167
~~equipment~~ or a facility as required by this section or if the 29168
person continues to seek payment or reimbursement for services 29169
rendered or costs incurred in conducting the activity as 29170
prohibited by section 3702.56 of the Revised Code, in addition to 29171
the penalties imposed under section 3702.54 or 3702.541 of the 29172
Revised Code: 29173

(A) The director of health may refuse to include any beds 29174
involved in the activity in the bed capacity of a hospital for 29175
purposes of registration under section 3701.07 of the Revised 29176
Code; 29177

(B) The director of health may refuse to license, or may 29178
revoke a license or reduce bed capacity previously granted to, a 29179

hospice care program under section 3712.04 of the Revised Code; a 29180
nursing home, ~~rest home~~ residential care facility, or home for the 29181
aging under section 3721.02 of the Revised Code; or any beds 29182
within any of those facilities that are involved in the activity; 29183

(C) A political subdivision certified under section 3721.09 29184
of the Revised Code may refuse to license, or may revoke a license 29185
or reduce bed capacity previously granted to, a nursing home, ~~rest~~ 29186
~~home~~ residential care facility, or home for the aging, or any beds 29187
within any of those facilities that are involved in the activity; 29188

(D) The director of mental health may refuse to license under 29189
section 5119.20 of the Revised Code, or may revoke a license or 29190
reduce bed capacity previously granted to, a hospital receiving 29191
mentally ill persons or beds within such a hospital that are 29192
involved in the activity; 29193

(E) The department of job and family services may refuse to 29194
enter into a provider agreement that includes a facility, beds, or 29195
services that result from the activity. 29196

Sec. 3702.56. No third-party payer or other person ~~or~~ 29197
~~government entity~~ is required to pay, and no person shall seek or 29198
accept payment or reimbursement for, any service rendered or costs 29199
incurred in conducting an activity during the period of time in 29200
which the activity was conducted in violation of section 3702.53 29201
of the Revised Code. Each person that accepts any amount in 29202
violation of this division shall refund that amount on request of 29203
the person ~~or government entity~~ that paid it. 29204

Sec. 3702.57. (A) The ~~public~~ director of health ~~council~~ shall 29205
adopt rules establishing procedures and criteria for reviews of 29206
applications for certificates of need and issuance, denial, or 29207
withdrawal of certificates. 29208

(1) In adopting rules that establish criteria for reviews of 29209

applications of certificates of need, the ~~council~~ director shall 29210
consider the availability of and need for long-term care beds to 29211
provide care and treatment to persons diagnosed as having 29212
traumatic brain injuries and shall prescribe criteria for 29213
reviewing applications that propose to add long-term care beds to 29214
provide care and treatment to persons diagnosed as having 29215
traumatic brain injuries. 29216

(2) The criteria for reviews of applications for certificates 29217
of need shall relate to the need for the reviewable activity and 29218
shall pertain to all of the following matters: 29219

(a) The impact of the reviewable activity on the cost and 29220
quality of ~~health~~ long-term care services in the relevant 29221
~~geographic~~ service area, including, but not limited, to the 29222
historical and projected utilization of the services to which the 29223
application pertains and the effect of the reviewable activity on 29224
utilization of other providers of similar services; 29225

(b) The quality of the services to be provided as the result 29226
of the activity, as evidenced by the historical performance of the 29227
persons that will be involved in providing the services and by the 29228
provisions that are proposed in the application to ensure quality, 29229
including but not limited to adequate available personnel, 29230
available ancillary and support services, available equipment, 29231
size and configuration of physical plant, and relations with other 29232
providers; 29233

(c) The impact of the reviewable activity on the availability 29234
and accessibility of the type of services proposed in the 29235
application to the population of the relevant ~~geographic~~ service 29236
area, and the level of access to the services proposed in the 29237
application that will be provided to medically underserved 29238
individuals such as recipients of public assistance and 29239
individuals who have no health insurance or whose health insurance 29240
is insufficient; 29241

(d) The activity's short- and long-term financial feasibility	29242
and cost-effectiveness, the impact of the activity on the	29243
applicant's costs and charges, and a comparison of the applicant's	29244
costs and charges with those of providers of similar services in	29245
the applicant's proposed service area;	29246
(e) The advantages, disadvantages, and costs of alternatives	29247
to the reviewable activity;	29248
(f) The impact of the activity on all other providers of	29249
similar services in the health service area or other relevant	29250
geographic <u>service</u> area, including the impact on their	29251
utilization, market share, and financial status;	29252
(g) The historical performance of the applicant and related	29253
or affiliated parties in complying with previously granted	29254
certificates of need and any applicable certification,	29255
accreditation, or licensure requirements;	29256
(h) The relationship of the activity to the current edition	29257
of the state health resources plan issued under section 3702.521	29258
of the Revised Code;	29259
(i) The historical performance of the applicant and related	29260
or affiliated parties in providing cost-effective health <u>long-term</u>	29261
care services;	29262
(j) <u>(i)</u> The special needs and circumstances of the applicant	29263
or population proposed to be served by the proposed project,	29264
including research activities, prevalence of particular diseases,	29265
unusual demographic characteristics, cost-effective contractual	29266
affiliations, and other special circumstances;	29267
(k) <u>(j)</u> The appropriateness of the zoning status of the	29268
proposed site of the activity;	29269
(l) <u>(k)</u> The participation by the applicant in research	29270
conducted by the United States food and drug administration or	29271

clinical trials sponsored by the national institutes of health. 29272

(3) The criteria for reviews of applications shall include a 29273
formula for determining each county's long-term care bed need for 29274
purposes of section 3702.593 of the Revised Code and may include 29275
other formulas for determining need for beds. 29276

Any rules prescribing criteria that establish ratios of beds 29277
to population shall specify the bases for establishing the ratios 29278
or mitigating factors or exceptions to the ratios. 29279

(B) The ~~council~~ director shall adopt rules specifying all of 29280
the following: 29281

(1) Information that must be provided in applications for 29282
certificates of need; 29283

(2) Procedures for reviewing applications for completeness of 29284
information; 29285

(3) Criteria for determining that the application is 29286
complete. 29287

(C) The ~~council~~ director shall adopt rules specifying 29288
requirements that holders of certificates of need must meet in 29289
order for the certificates to remain valid and establishing 29290
definitions and requirements for obligation of capital 29291
expenditures and implementation of projects authorized by 29292
certificates of need. 29293

(D) The ~~council~~ director shall adopt rules establishing 29294
criteria and procedures under which the director of health may 29295
withdraw a certificate of need if the holder fails to meet 29296
requirements for continued validity of the certificate. 29297

(E) The ~~council~~ director shall adopt rules establishing 29298
procedures under which the department of health shall monitor 29299
project implementation activities of holders of certificates of 29300
need. The rules adopted under this division also may establish 29301

procedures for monitoring implementation activities of persons 29302
that have received nonreviewability rulings. 29303

(F) The ~~council~~ director shall adopt rules establishing 29304
procedures under which the director of health shall review 29305
certificates of need whose holders exceed or appear likely to 29306
exceed an expenditure maximum specified in a certificate. 29307

(G) The ~~council~~ director shall adopt rules establishing 29308
certificate of need application fees sufficient to pay the costs 29309
incurred by the department for administering sections 3702.51 to 29310
3702.62 of the Revised Code ~~and to pay health service agencies for~~ 29311
~~the functions they perform under division (D)(5) of section~~ 29312
~~3702.58 of the Revised Code.~~ Unless rules are adopted under this 29313
division establishing different application fees, the application 29314
fee for a project not involving a capital expenditure shall be 29315
three thousand dollars and the application fee for a project 29316
involving a capital expenditure shall be nine-tenths of one per 29317
cent of the capital expenditure proposed subject to a minimum of 29318
three thousand dollars and a maximum of twenty thousand dollars. 29319

(H) The ~~council~~ director shall adopt rules specifying 29320
information that is necessary to conduct reviews of certificate of 29321
need applications and to develop ~~recommendations for~~ criteria for 29322
reviews that ~~health long-term~~ care facilities ~~and other health~~ 29323
~~care providers~~ are to submit to the director under division ~~(G)~~(H) 29324
of section 3702.52 of the Revised Code. 29325

(I) The ~~council~~ director shall adopt rules defining 29326
"affiliated person," "related person," and "ultimate controlling 29327
interest" for purposes of section ~~3702.524~~ 3702.523 of the Revised 29328
Code. 29329

(J) The ~~council~~ director shall adopt rules prescribing 29330
requirements for holders of certificates of need to demonstrate to 29331
the director under section ~~3702.526~~ 3702.525 of the Revised Code 29332

that reasonable progress is being made toward completion of the 29333
reviewable activity and establishing standards by which the 29334
director shall determine whether reasonable progress is being 29335
made. 29336

(K) The ~~public health council~~ director shall adopt all rules 29337
under divisions (A) to (J) of this section in accordance with 29338
Chapter 119. of the Revised Code. The ~~council~~ director may adopt 29339
other rules as necessary to carry out the purposes of sections 29340
3702.51 to 3702.62 of the Revised Code. 29341

Sec. 3702.59. (A) The director of health shall accept for 29342
review certificate of need applications as provided in sections 29343
3702.592, 3702.593, and 3702.594 of the Revised Code. 29344

(B)(1) The director shall not approve an application for a 29345
certificate of need for the addition of long-term care beds to an 29346
existing ~~health~~ long-term care facility or for the development of 29347
a new ~~health~~ long-term care facility if any of the following 29348
apply: 29349

(a) The existing ~~health~~ long-term care facility in which the 29350
beds are being placed has one or more waivers for life safety code 29351
deficiencies, one or more state fire code violations, or one or 29352
more state building code violations, and the project identified in 29353
the application does not propose to correct all life safety code 29354
deficiencies for which a waiver has been granted, all state fire 29355
code violations, and all state building code violations at the 29356
existing ~~health~~ long-term care facility in which the beds are 29357
being placed; 29358

(b) During the sixty-month period preceding the filing of the 29359
application, a notice of proposed license revocation was issued 29360
under section 3721.03 of the Revised Code for the existing ~~health~~ 29361
long-term care facility in which the beds are being placed or a 29362
nursing home owned or operated by the applicant or a principal 29363

participant. 29364

(c) During the period that precedes the filing of the 29365
application and is encompassed by the three most recent standard 29366
surveys of the existing ~~health~~ long-term care facility in which 29367
the beds are being placed, any of the following occurred: 29368

(i) The facility was cited on three or more separate 29369
occasions for final, nonappealable actual harm but not immediate 29370
jeopardy deficiencies. 29371

(ii) The facility was cited on two or more separate occasions 29372
for final, nonappealable immediate jeopardy deficiencies. 29373

(iii) The facility was cited on two separate occasions for 29374
final, nonappealable actual harm but not immediate jeopardy 29375
deficiencies and on one occasion for a final, nonappealable 29376
immediate jeopardy deficiency. 29377

(d) More than two nursing homes owned or operated in this 29378
state by the applicant or a principal participant or, if the 29379
applicant or a principal participant owns or operates more than 29380
twenty nursing homes in this state, more than ten per cent of 29381
those nursing homes, were each cited during the period that 29382
precedes the filing of the application for the certificate of need 29383
and is encompassed by the three most recent standard surveys of 29384
the nursing homes that were so cited in any of the following 29385
manners: 29386

(i) On three or more separate occasions for final, 29387
nonappealable actual harm but not immediate jeopardy deficiencies; 29388

(ii) On two or more separate occasions for final, 29389
nonappealable immediate jeopardy deficiencies; 29390

(iii) On two separate occasions for final, nonappealable 29391
actual harm but not immediate jeopardy deficiencies and on one 29392
occasion for a final, nonappealable immediate jeopardy deficiency. 29393

(2) In applying divisions (B)(1)(a) to (d) of this section, 29394
the director shall not consider deficiencies or violations cited 29395
before the applicant or a principal participant acquired or began 29396
to own or operate the ~~health~~ long-term care facility at which the 29397
deficiencies or violations were cited. The director may disregard 29398
deficiencies and violations cited after the ~~health~~ long-term care 29399
facility was acquired or began to be operated by the applicant or 29400
a principal participant if the deficiencies or violations were 29401
attributable to circumstances that arose under the previous owner 29402
or operator and the applicant or principal participant has 29403
implemented measures to alleviate the circumstances. In the case 29404
of an application proposing development of a new ~~health~~ long-term 29405
care facility by relocation of beds, the director shall not 29406
consider deficiencies or violations that were solely attributable 29407
to the physical plant of the existing ~~health~~ long-term care 29408
facility from which the beds are being relocated. 29409

(C) The director also shall accept for review any application 29410
for the conversion of infirmary beds to long-term care beds if the 29411
infirmary meets all of the following conditions: 29412

(1) Is operated exclusively by a religious order; 29413

(2) Provides care exclusively to members of religious orders 29414
who take vows of celibacy and live by virtue of their vows within 29415
the orders as if related; 29416

(3) Was providing care exclusively to members of such a 29417
religious order on January 1, 1994. 29418

(D) Notwithstanding division (C)(2) of this section, a 29419
facility that has been granted a certificate of need under 29420
division (C) of this section may provide care to any of the 29421
following family members of the individuals described in division 29422
(C)(2) of this section: mothers, fathers, brothers, sisters, 29423
brothers-in-law, sisters-in-law, or children. 29424

The long-term care beds in a facility that have been granted 29425
a certificate of need under division (C) of this section may not 29426
be relocated pursuant to sections 3702.592 to 3702.594 of the 29427
Revised Code. 29428

Sec. 3702.592. (A) The director of health shall accept, for 29429
review under section 3702.52 of the Revised Code, certificate of 29430
need applications for any of the following purposes if the 29431
proposed increase in beds is attributable ~~solely~~ to a replacement 29432
or relocation of existing beds from an existing ~~health~~ long-term 29433
care facility within the same county: 29434

(1) Approval of beds in a new ~~health~~ long-term care facility 29435
or an increase of beds in an existing ~~health~~ long-term care 29436
facility if the beds are proposed to be licensed as nursing home 29437
beds under Chapter 3721. of the Revised Code; 29438

(2) Approval of beds in a new county home or new county 29439
nursing home, or an increase of beds in an existing county home or 29440
existing county nursing home if the beds are proposed to be 29441
certified as skilled nursing facility beds under the medicare 29442
program, Title XVIII of the "Social Security Act," 49 Stat. 286 29443
(1965), 42 U.S.C. 1395, as amended, or nursing facility beds under 29444
the medicaid program, Title XIX of the "Social Security Act," 49 29445
Stat. 286 (1965), 42 U.S.C. 1396, as amended; 29446

(3) An increase of hospital beds registered pursuant to 29447
section 3701.07 of the Revised Code as long-term care beds; 29448

(4) An increase of hospital beds registered pursuant to 29449
section 3701.07 of the Revised Code as special skilled nursing 29450
beds that were originally authorized by and are operated in 29451
accordance with section ~~3702.522~~ 3702.521 of the Revised Code. 29452

(B) The director shall accept applications described in 29453
division (A) of this section at any time. 29454

Sec. 3702.593. (A) At the times specified in this section, 29455
the director of health shall accept, for review under section 29456
3702.52 of the Revised Code, certificate of need applications for 29457
any of the following purposes if the proposed increase in beds is 29458
attributable solely to relocation of existing beds from an 29459
existing ~~health~~ long-term care facility in a county with excess 29460
beds to a ~~health~~ long-term care facility in a county in which 29461
there are fewer long-term care beds than the county's bed need: 29462

(1) Approval of beds in a new ~~health~~ long-term care facility 29463
or an increase of beds in an existing ~~health~~ long-term care 29464
facility if the beds are proposed to be licensed as nursing home 29465
beds under Chapter 3721. of the Revised Code; 29466

(2) Approval of beds in a new county home or new county 29467
nursing home, or an increase of beds in an existing county home or 29468
existing county nursing home if the beds are proposed to be 29469
certified as skilled nursing facility beds under the medicare 29470
program, Title XVIII of the "Social Security Act," 49 Stat. 286 29471
(1965), 42 U.S.C. 1395, as amended, or nursing facility beds under 29472
the medicaid program, Title XIX of the "Social Security Act," 49 29473
Stat. 286 (1965), 42 U.S.C. 1396, as amended; 29474

(3) An increase of hospital beds registered pursuant to 29475
section 3701.07 of the Revised Code as long-term care beds. 29476

(B) For the purpose of implementing this section, the 29477
director shall do all of the following: 29478

(1) ~~Determine~~ Not later than April 1, 2012, and every four 29479
years thereafter, determine the long-term care bed supply for each 29480
county, which shall consist of all of the following: 29481

(a) Nursing home beds licensed under Chapter 3721. of the 29482
Revised Code; 29483

(b) Beds certified as skilled nursing facility beds under the 29484

medicare program or nursing facility beds under the medicaid program; 29485
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(c) Beds in any portion of a hospital that are properly registered under section 3701.07 of the Revised Code as skilled nursing beds, long-term care beds, or special skilled nursing beds; 29487
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(d) Beds in a county home or county nursing home that are certified under section 5155.38 of the Revised Code as having been in operation on July 1, 1993, and are eligible for licensure as nursing home beds; 29491
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~~(d)(e) Beds held as approved long term care beds under a certificate of need approved by the director described in division (O)(5) of section 3702.51 of the Revised Code.~~ 29495
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(2) Determine the long-term care bed occupancy rate for the state at the time the determination is made; 29498
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(3) For each county, determine the county's bed need by identifying the number of long-term care beds that would be needed in the county in order for the statewide occupancy rate for a projected population aged sixty-five and older to be ninety per cent. 29500
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In determining each county's bed need, the director shall use the formula developed in rules adopted under section 3702.57 of the Revised Code. ~~The director's first determination after the effective date of this section shall be made not later than April 1, 2010. The second determination shall be made not later than April 1, 2012. Thereafter, a~~ A determination shall be made every four years. After each determination is made, the director shall publish the county's bed need on the web site maintained by the department of health. 29505
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(C) The director's consideration of a certificate of need that would increase the number of beds in a county shall be 29514
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consistent with the county's bed need determined under division 29516
(B) of this section except as follows: 29517

(1) If a county's occupancy rate is less than eighty-five per 29518
cent, the county shall be considered to have no need for 29519
additional beds. 29520

(2) Even if a county is determined not to need any additional 29521
long-term care beds, the director may approve an increase in beds 29522
equal to up to ten per cent of the county's bed supply if the 29523
county's occupancy rate is greater than ninety per cent. 29524

(D)(1) ~~Applications made under this section shall be subject~~ 29525
~~to comparative review.~~ The review period for the first comparative 29526
review process ~~after the effective date of this section~~ shall 29527
begin July 1, 2010, and end June 30, 2012. The next review period 29528
shall begin July 1, 2012, and end June 30, 2016. Thereafter, the 29529
review period for each comparative review process shall begin on 29530
the first day of July following the end of the previous review 29531
period and shall be four years. 29532

(2) Certificate of need applications shall be accepted during 29533
the first month of the review period and reviewed ~~from the first~~ 29534
~~day of the review period~~ through the thirtieth day of April of the 29535
following year. 29536

(3) Except for the first review period after ~~the effective~~ 29537
~~date of this section~~ October 16, 2009, each review period may 29538
consist of two phases. The first phase of the review period shall 29539
be the period during which the director accepts and reviews 29540
certificate of need applications as provided in division (D)(2) of 29541
this section. If the director determines that there will be 29542
acceptance and review of additional certificate of need 29543
applications, the second phase of the review period shall begin on 29544
the first day of July of the third year of the review period. The 29545
second phase shall be limited to acceptance and review of 29546

applications for redistribution of beds made available pursuant to 29547
division ~~(G)~~(2)(I) of this section. During the period between the 29548
first and second phases of the review period, the director shall 29549
act in accordance with division ~~(H)~~(I) of this section. 29550

(E) The director shall consider certificate of need 29551
applications in accordance with all of the following: 29552

(1) The number of beds approved for a county shall include 29553
only beds available for relocation from another county and shall 29554
not exceed the bed need of the receiving county; 29555

(2) The director shall consider the existence of community 29556
resources serving persons who are age sixty-five or older or 29557
disabled that are demonstrably effective in providing alternatives 29558
to long-term care facility placement. 29559

(3) The director shall approve relocation of beds from a 29560
county only if, after the relocation, the number of beds remaining 29561
in the county will exceed the county's bed need by at least one 29562
hundred beds; 29563

(4) The director shall approve relocation of beds from a 29564
~~health~~ long-term care facility only if, after the relocation, the 29565
number of beds in the facility's service area is at least equal to 29566
the state bed need rate. For purposes of this division, a 29567
facility's service area shall be either of the following: 29568

(a) The census tract in which the facility is located, if the 29569
facility is located in an area designated by the United States 29570
secretary of health and human services as a health professional 29571
shortage area under the "Public Health Service Act," 88 Stat. 682 29572
(1944), 42 U.S.C. 254(e), as amended; 29573

(b) The area that is within a fifteen-mile radius of the 29574
facility's location, if the facility is not located in a health 29575
professional shortage area. 29576

(F) Applications made under this section are subject to comparative review if two or more applications are submitted during the same review period and any of the following applies: 29577
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(1) The applications propose to relocate beds from the same county and the number of beds for which certificates of need are being requested totals more than the number of beds available in the county from which the beds are to be relocated. 29580
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(2) The applications propose to relocate beds to the same county and the number of beds for which certificates of need are being requested totals more than the number of beds needed in the county to which the beds are to be relocated. 29584
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(3) The applications propose to relocate beds from the same service area and the number of beds left in the service area from which the beds are being relocated would be less than the state bed need rate determined by the director. 29588
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(G) In determining which applicants should receive preference in the comparative review process, the director shall consider all of the following as weighted priorities: 29592
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(1) Whether the beds will be part of a continuing care retirement community; 29595
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(2) Whether the beds will serve an underserved population, such as low-income individuals, individuals with disabilities, or individuals who are members of racial or ethnic minority groups; 29597
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(3) Whether the project in which the beds will be included will provide alternatives to institutional care, such as adult day-care, home health care, respite or hospice care, mobile meals, residential care, independent living, or congregate living services; 29600
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(4) Whether the ~~health~~ long-term care facility's owner or operator will participate in medicaid waiver programs for 29605
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alternatives to institutional care;	29607
(5) Whether the project in which the beds will be included	29608
will reduce alternatives to institutional care by converting	29609
residential care beds or other alternative care beds to long-term	29610
care beds;	29611
(6) Whether the facility in which the beds will be placed has	29612
positive resident and family satisfaction surveys;	29613
(7) Whether the facility in which the beds will be placed has	29614
fewer than fifty long-term care beds;	29615
(8) Whether the health <u>long-term</u> care facility in which the	29616
beds will be placed is located within the service area of a	29617
hospital and is designed to accept patients for rehabilitation	29618
after an in-patient hospital stay;	29619
(9) Whether the health <u>long-term</u> care facility in which the	29620
beds will be placed is or proposes to become a nurse aide training	29621
and testing site;	29622
(10) The rating, under the centers for medicare and medicaid	29623
services' five star nursing home quality rating system, of the	29624
health <u>long-term</u> care facility in which the beds will be placed.	29625
(G)(1) When a certificate of need application is approved	29626
during the initial phase of a four year review period, on	29627
completion of the project under which the beds are relocated, that	29628
number of beds shall cease to be operated in the health care	29629
facility from which they were relocated and, if the licensure or	29630
certification of those beds cannot be or is not transferred to the	29631
facility to which the beds are relocated, the licensure or	29632
certification shall be surrendered.	29633
(2) In (H) A person who has submitted an application under	29634
this section that is not subject to comparative review may revise	29635
the site of the proposed project pursuant to section 3702.522 of	29636

the Revised Code. 29637

(I) When a certificate of need application is approved during 29638
the initial phase of a four-year review period, in addition to the 29639
actions required by division ~~(C)(1)~~(D) of ~~this~~ section 3702.52 of 29640
the Revised Code, the health long-term care facility from which 29641
the beds were relocated shall reduce the number of beds operated 29642
in the facility by a number of beds equal to at least ten per cent 29643
of the number of beds relocated ~~and shall surrender the licensure~~ 29644
~~or certification of those beds.~~ If these beds are in a home 29645
licensed under Chapter 3721. of the Revised Code, the long-term 29646
care facility shall have the beds removed from the license. If the 29647
beds are in a facility that is certified as a skilled nursing 29648
facility or nursing facility under Title XVIII or XIX of the 29649
"Social Security Act," the facility shall surrender the 29650
certification of these beds. If the beds are registered as skilled 29651
nursing beds or long-term care beds under section 3701.07 of the 29652
Revised Code, the long-term care facility shall surrender the 29653
registration for these beds. This reduction shall be made not 29654
later than the completion date of the project for which the beds 29655
were relocated. 29656

~~(H)~~(J)(1) Once approval of certificate of need applications 29657
in the first phase of a four-year review period is complete, the 29658
director shall make a new determination of the bed need for each 29659
county by reducing the county's bed need by the number of beds 29660
approved for relocation to the county. The new bed-need 29661
determination shall be made not later than the first day of April 29662
of the third year of the review period. 29663

(2) The director may publish on the department's web site the 29664
remaining bed need for counties that will be considered for 29665
redistribution of beds that, in accordance with division ~~(C)(2)~~(I) 29666
of this section, have ceased or will cease to be operated. The 29667
director shall base the determination of whether to include a 29668

county on all of the following: 29669

(a) The statewide number of beds that, in accordance with 29670
division ~~(G)(2)(I)~~ of this section, have ceased or will cease to 29671
be operated; 29672

(b) The county's remaining bed need; 29673

(c) The county's bed occupancy rate. 29674

~~(I)(K)~~ If the director publishes the remaining bed need for a 29675
county under division ~~(H)(J)(2)~~ of this section, the director may, 29676
beginning on the first day of the second phase of the review 29677
period, accept certificate of need applications for redistribution 29678
to ~~health~~ long-term care facilities in that county of beds that 29679
have ceased or will cease operation in accordance with division 29680
~~(G)(2)(I)~~ of this section. The total number of beds approved for 29681
redistribution in the second phase of a review period shall not 29682
exceed the number that have ceased or will cease operation in 29683
accordance with division ~~(G)(2)(I)~~ of this section. Beds that are 29684
not approved for redistribution during the second phase of a 29685
review period shall not be available for redistribution at any 29686
future time. 29687

Sec. 3702.594. (A) The director of health shall accept, for 29688
review under section 3702.52 of the Revised Code, certificate of 29689
need applications for an increase in beds in an existing nursing 29690
home if all of the following conditions are met: 29691

(1) The proposed increase is attributable solely to a 29692
relocation of licensed nursing home beds from an existing nursing 29693
home to another existing nursing home located in a county that is 29694
contiguous to the county from which the beds are to be relocated; 29695

(2) Not more than a total of thirty nursing home beds are 29696
proposed for relocation to the same existing nursing home 29697
regardless of the number of applications filed. Once the 29698

cumulative total of beds relocated under this section to a nursing home reaches thirty, no further applications under this section will be accepted until the period of monitoring specified in division (E) of section 3702.52 of the Revised Code of the most recent reviewable activity implemented under this section has expired; 29699
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(3) After the proposed relocation, there will be existing nursing home beds remaining in the county from which the beds are relocated; 29705
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(4) The beds are proposed to be licensed as nursing home beds under Chapter 3721. of the Revised Code. 29708
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(B) The director shall accept applications described in division (A) of this section at any time. 29710
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Sec. 3702.60. (A) Any affected person may appeal a reviewability ruling ~~issued on or after April 20, 1995,~~ to the director of health in accordance with Chapter 119. of the Revised Code, and the director shall provide an adjudication hearing in accordance with that chapter. An affected person may appeal the director's ruling in the adjudication hearing to the tenth district court of appeals. 29712
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(B) The certificate of need applicant or another affected person may appeal to the director in accordance with Chapter 119. of the Revised Code a decision issued by the director ~~on or after April 20, 1995,~~ to grant or deny a certificate of need application ~~for which an adjudication hearing was not conducted under section 3702.52 of the Revised Code,~~ and the director shall provide an adjudication hearing in accordance with that chapter. The certificate of need applicant or other affected person that appeals the director's decision to grant or deny a certificate of need application must prove by a preponderance of the evidence that the director's decision is not in accordance with sections 29719
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3702.52 to 3702.62 of the Revised Code or rules adopted under 29730
those sections. The certificate of need applicant or an affected 29731
person that was a party to and participated in an adjudication 29732
hearing conducted under this division ~~or section 3702.52 of the~~ 29733
~~Revised Code~~ may appeal to the tenth district court of appeals the 29734
decision issued by the director following the adjudication 29735
hearing. ~~No person may appeal to the director or a court the~~ 29736
~~director's granting of a certificate of need prior to June 30,~~ 29737
~~1995, under the version of section 3702.52 of the Revised Code in~~ 29738
~~effect immediately prior to that date due to failure to submit~~ 29739
~~timely written objections, no person may appeal to the director or~~ 29740
~~a court the director's granting of a certificate of need under~~ 29741
~~division (C)(1) of section 3702.52 of the Revised Code.~~ 29742

(C) The certificate of need holder may appeal to the director 29743
in accordance with Chapter 119. of the Revised Code a decision 29744
issued by the director under section 3702.52 or ~~3702.526~~ 3702.525 29745
of the Revised Code ~~on or after April 20, 1995,~~ to withdraw a 29746
certificate of need, and the director shall provide an 29747
adjudication hearing in accordance with that chapter. The person 29748
may appeal the director's ruling in the adjudication hearing to 29749
the tenth district court of appeals. 29750

(D) Any person determined by the director to have violated 29751
section 3702.53 of the Revised Code may appeal that determination, 29752
or the penalties imposed under section 3702.54 or 3702.541 of the 29753
Revised Code, to the director in accordance with Chapter 119. of 29754
the Revised Code, and the director shall provide an adjudication 29755
hearing in accordance with that chapter. The person may appeal the 29756
director's ruling in the adjudication hearing to the tenth 29757
district court of appeals. 29758

(E) Each person appealing under this section to the director 29759
shall file with the director, not later than thirty days after the 29760
decision, ruling, or determination of the director was mailed, a 29761

notice of appeal designating the decision, ruling, or 29762
determination appealed from. 29763

(F) Each person appealing under this section to the tenth 29764
district court of appeals shall file with the court, not later 29765
than thirty days after the date the director's adjudication order 29766
was mailed, a notice of appeal designating the order appealed 29767
from. The appellant also shall file notice with the director not 29768
later than thirty days after the date the order was mailed. 29769

(1) Not later than thirty days after receipt of the notice of 29770
appeal, the director shall prepare and certify to the court the 29771
complete record of the proceedings out of which the appeal arises. 29772
The expense of preparing and transcribing the record shall be 29773
taxed as part of the costs of the appeal. In the event that the 29774
record or a part thereof is not certified within the time 29775
prescribed by this division, the appellant may apply to the court 29776
for an order that the record be certified. 29777

(2) In hearing the appeal, the court shall consider only the 29778
evidence contained in the record certified to it by the director. 29779
The court may remand the matter to the director for the admission 29780
of additional evidence on a finding that the additional evidence 29781
is material, newly discovered, and could not with reasonable 29782
diligence have been ascertained before the hearing before the 29783
director. Except as otherwise provided by statute, the court shall 29784
give the hearing on the appeal preference over all other civil 29785
matters, irrespective of the position of the proceedings on the 29786
calendar of the court. 29787

(3) The court shall affirm the director's order if it finds, 29788
upon consideration of the entire record and any additional 29789
evidence admitted under division (F)(2) of this section, that the 29790
order is supported by reliable, probative, and substantial 29791
evidence and is in accordance with law. In the absence of such a 29792
finding, it shall reverse, vacate, or modify the order. 29793

(4) If the court determines that the director committed material procedural error, the court shall remand the matter to the director for further consideration or action.

(G) The court may award reasonable attorney's fees against the appellant if it determines that the appeal was frivolous. Sections 119.092, 119.093, and 2335.39 of the Revised Code do not apply to adjudication hearings under this section or section 3702.52 of the Revised Code and judicial appeals under this section.

(H) No person may intervene in an appeal brought under this section.

Sec. 3702.62. ~~(A) Any action pursuant to section 140.03, 140.04, 140.05, 307.091, 313.21, 339.01, 339.021, 339.03, 339.06, 339.08, 339.09, 339.12, 339.14, 513.05, 513.07, 513.08, 513.081, 513.12, 513.15, 513.17, 513.171, 749.02, 749.03, 749.14, 749.16, 749.20, 749.25, 749.28, 749.35, 1751.06, or 3707.29 of the Revised Code shall be taken in accordance with sections 3702.51 to 3702.61 of the Revised Code.~~

~~(B) A nursing home certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, that is required to apply for licensure as a residential facility under section 5123.19 of the Revised Code is not, with respect to the portion of the home certified as an intermediate care facility for the mentally retarded, subject to sections Sections 3702.51 to 3702.61 of the Revised Code do not apply to any part of long-term care facility's campus that is certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 343 (1965), 42 U.S.C. 1396 et seq., as amended.~~

Sec. 3703.01. (A) Except as otherwise provided in this 29824
section, the division of ~~labor~~ industrial compliance in the 29825
department of commerce shall do all of the following: 29826

(1) Inspect all nonresidential buildings within the meaning 29827
of section 3781.06 of the Revised Code; 29828

(2) Condemn all unsanitary or defective plumbing that is 29829
found in connection with those places; 29830

(3) Order changes in plumbing necessary to insure the safety 29831
of the public health. 29832

(B)(1)(a) The division of ~~labor~~ industrial compliance, boards 29833
of health of city and general health districts, and county 29834
building departments shall not inspect plumbing or collect fees 29835
for inspecting plumbing in particular types of buildings in any 29836
municipal corporation that is certified by the board of building 29837
standards under section 3781.10 of the Revised Code to exercise 29838
enforcement authority for plumbing in those types of buildings. 29839

(b) The division shall not inspect plumbing or collect fees 29840
for inspecting plumbing in particular types of buildings in any 29841
health district that employs one or more plumbing inspectors 29842
certified pursuant to division (D) of this section to enforce 29843
Chapters 3781. and 3791. of the Revised Code and the rules adopted 29844
pursuant to those chapters relating to plumbing in those types of 29845
buildings. 29846

(c) The division shall not inspect plumbing or collect fees 29847
for inspecting plumbing in particular types of buildings in any 29848
health district where the county building department is authorized 29849
to inspect those types of buildings pursuant to a contract 29850
described in division (C)(1) of this section. 29851

(d) The division shall not inspect plumbing or collect fees 29852
for inspecting plumbing in particular types of buildings in any 29853

health district where the board of health has entered into a 29854
contract with the board of health of another district to conduct 29855
inspections pursuant to division (C)(2) of this section. 29856

(2) No county building department shall inspect plumbing or 29857
collect fees for inspecting plumbing in any type of building in a 29858
health district unless the department is authorized to inspect 29859
that type of building pursuant to a contract described in division 29860
(C)(1) of this section. 29861

(3) No municipal corporation shall inspect plumbing or 29862
collect fees for inspecting plumbing in types of buildings for 29863
which it is not certified by the board of building standards under 29864
section 3781.10 of the Revised Code to exercise enforcement 29865
authority. 29866

(4) No board of health of a health district shall inspect 29867
plumbing or collect fees for inspecting plumbing in types of 29868
buildings for which it does not have a plumbing inspector 29869
certified pursuant to division (D) of this section. 29870

(C)(1) The board of health of a health district may enter 29871
into a contract with a board of county commissioners to authorize 29872
the county building department to inspect plumbing in buildings 29873
within the health district. The contract may designate that the 29874
department inspect either residential or nonresidential buildings, 29875
as those terms are defined in section 3781.06 of the Revised Code, 29876
or both types of buildings, so long as the department employs or 29877
contracts with a plumbing inspector certified pursuant to division 29878
(D) of this section to inspect the types of buildings the contract 29879
designates. The board of health may enter into a contract 29880
regardless of whether the health district employs any certified 29881
plumbing inspectors to enforce Chapters 3781. and 3791. of the 29882
Revised Code. 29883

(2) The board of health of a health district, regardless of 29884

whether it employs any certified plumbing inspectors to enforce 29885
Chapters 3781. and 3791. of the Revised Code, may enter into a 29886
contract with the board of health of another health district to 29887
authorize that board to inspect plumbing in buildings within the 29888
contracting board's district. The contract may designate the 29889
inspection of either residential or nonresidential buildings as 29890
defined in section 3781.06 of the Revised Code, or both types of 29891
buildings, so long as the board that performs the inspections 29892
employs a plumbing inspector certified pursuant to division (D) of 29893
this section to inspect the types of buildings the contract 29894
designates. 29895

(D) The superintendent of ~~labor~~ industrial compliance shall 29896
adopt rules prescribing minimum qualifications based on education, 29897
training, experience, or demonstrated ability, that the 29898
superintendent shall use in certifying or recertifying plumbing 29899
inspectors to do plumbing inspections for health districts and 29900
county building departments that are authorized to perform 29901
inspections pursuant to a contract under division (C)(1) of this 29902
section, and for continuing education of plumbing inspectors. 29903
Those minimum qualifications shall be related to the types of 29904
buildings for which a person seeks certification. 29905

(E) The superintendent may enter into reciprocal 29906
registration, licensure, or certification agreements with other 29907
states and other agencies of this state relative to plumbing 29908
inspectors if both of the following apply: 29909

(1) The requirements for registration, licensure, or 29910
certification of plumbing inspectors under the laws of the other 29911
state or laws administered by the other agency are substantially 29912
equal to the requirements the superintendent adopts under division 29913
(D) of this section for certifying plumbing inspectors. 29914

(2) The other state or agency extends similar reciprocity to 29915
persons certified under this chapter. 29916

(F) The superintendent may select and contract with one or more persons to do all of the following regarding examinations for certification of plumbing inspectors:

(1) Prepare, administer, score, and maintain the confidentiality of the examination;

(2) Maintain responsibility for all expenses required to comply with division (F)(1) of this section;

(3) Charge each applicant a fee for administering the examination in an amount the superintendent authorizes;

(4) Design the examination for certification of plumbing inspectors to determine an applicant's competence to inspect plumbing.

(G) Standards and methods prescribed in local plumbing regulations shall not be less than those prescribed in Chapters 3781. and 3791. of the Revised Code and the rules adopted pursuant to those chapters.

(H) Notwithstanding any other provision of this section, the division shall make a plumbing inspection of any building or other place that there is reason to believe is in a condition to be a menace to the public health.

Sec. 3703.03. In the administration of sections 3703.01 to 3703.08 of the Revised Code, the division of ~~labor~~ industrial compliance shall enforce rules governing plumbing adopted by the board of building standards under authority of sections 3781.10 and 3781.11 of the Revised Code, and register those persons engaged in or at the plumbing business.

Plans and specifications for all plumbing to be installed in or for buildings coming within such sections shall be submitted to and approved by the division before the contract for plumbing is let.

Sec. 3703.04. The superintendent of ~~labor~~ industrial compliance shall appoint such number of plumbing inspectors as is required. The inspectors shall be practical plumbers with at least seven years' experience, and skilled and well-trained in matters pertaining to sanitary regulations concerning plumbing work.

Sec. 3703.05. Plumbing inspectors employed by the division of ~~labor~~ industrial compliance assigned to the enforcement of sections 3703.01 to 3703.08 of the Revised Code may, between sunrise and sunset, enter any building where there is good and sufficient reason to believe that the sanitary condition of the premises endangers the public health, for the purpose of making an inspection to ascertain the condition of the premises.

Sec. 3703.06. When any building is found to be in a sanitary condition or when changes which are ordered, under authority of this chapter, in the plumbing, drainage, or ventilation have been made, and after a thorough inspection and approval by the superintendent of ~~labor~~ industrial compliance, the superintendent shall issue a certificate, which shall be posted in a conspicuous place for the benefit of the public at large. Upon notification by the superintendent, the certificate shall be revoked for any violation of those sections.

Sec. 3703.07. No plumbing work shall be done in any building or place coming within the jurisdiction of the division of ~~labor~~ industrial compliance, except in cases of repairs or leaks in existing plumbing, until a permit has been issued by the division.

Before granting such permit, an application shall be made by the owner of the property or by the person, firm, or corporation which is to do the work. The application shall be made on a form prepared by the division for the purpose, and each application

shall be accompanied by a fee of twenty-seven dollars, and an 29976
additional fee of seven dollars for each trap, vented fixture, 29977
appliance, or device. Each application also shall be accompanied 29978
by a plan approval fee of eighteen dollars for work containing one 29979
through twenty fixtures; thirty-six dollars for work containing 29980
twenty-one through forty fixtures; and fifty-four dollars for work 29981
containing forty-one or more fixtures. 29982

Whenever a reinspection is made necessary by the failure of 29983
the applicant or plumbing contractor to have the work ready for 29984
inspection when so reported, or by reason of faulty or improper 29985
installation, the person shall pay a fee of forty-five dollars for 29986
each reinspection. 29987

All fees collected pursuant to this section shall be paid 29988
into the state treasury to the credit of the ~~labor~~ industrial 29989
compliance operating fund created in section 121.084 of the 29990
Revised Code. 29991

The superintendent of ~~labor~~ industrial compliance, by rule 29992
adopted in accordance with Chapter 119. of the Revised Code, may 29993
increase the fees required by this section and may establish fees 29994
to pay the costs of the division to fulfill its duties established 29995
by this chapter, including, but not limited to, fees for 29996
administering a program for continuing education for, and 29997
certifying and recertifying plumbing inspectors. The fees shall 29998
bear some reasonable relationship to the cost of administering and 29999
enforcing the provisions of this chapter. 30000

Sec. 3703.08. Any owner, agent, or manager of a building in 30001
which an inspection is made by the division of ~~labor~~ industrial 30002
compliance, a board of health of a health district, or a certified 30003
department of building inspection of a municipal corporation or a 30004
county shall have the entire system of drainage and ventilation 30005
repaired, as the division, board of health, or department of 30006

building inspection directs by its order. After due notice to 30007
repair that work is given, the owner, agent, or manager shall 30008
notify the public authority that issued the order when the work is 30009
ready for its inspection. No person shall fail to have the work 30010
ready for inspection at the time specified in the notice. 30011

Sec. 3703.10. All prosecutions and proceedings by the 30012
division of ~~labor~~ industrial compliance for the violation of 30013
sections 3703.01 to 3703.08 of the Revised Code, or for the 30014
violation of any of the orders or rules of the division under 30015
those sections, shall be instituted by the superintendent of ~~labor~~ 30016
industrial compliance. All fines or judgments collected by the 30017
division shall be paid into the state treasury to the credit of 30018
the ~~labor~~ industrial compliance operating fund created by section 30019
121.084 of the Revised Code. 30020

The superintendent, the board of health of a general or city 30021
health district, or any person charged with enforcing the rules of 30022
the division adopted under sections 3703.01 to 3703.08 of the 30023
Revised Code may petition the court of common pleas for injunctive 30024
or other appropriate relief requiring any person violating a rule 30025
adopted or order issued by the superintendent under those sections 30026
to comply with the rule or order. The court of common pleas of the 30027
county in which the offense is alleged to be occurring may grant 30028
injunctive or other appropriate relief. 30029

The superintendent may do all of the following: 30030

(A) Deny an applicant certification as a plumbing inspector; 30031

(B) Suspend or revoke the certification of a plumbing 30032
inspector; 30033

(C) Examine any certified plumbing inspector under oath; 30034

(D) Examine the records and books of any certified plumbing 30035
inspector if the superintendent finds the material to be examined 30036

relevant to a determination described in division (A), (B), or (C) 30037
of this section. 30038

Sec. 3703.21. (A) Within ninety days after September 16, 30039
2004, the superintendent of ~~labor~~ industrial compliance shall 30040
appoint a backflow advisory board consisting of not more than ten 30041
members, who shall serve at the pleasure of the superintendent. 30042
The superintendent shall appoint a representative from the 30043
plumbing section of the division of ~~labor~~ industrial compliance, 30044
three representatives recommended by the plumbing administrator of 30045
the division of ~~labor~~ industrial compliance, a representative of 30046
the drinking water program of the Ohio environmental protection 30047
agency, three representatives recommended by the director of 30048
environmental protection, and not more than two members who are 30049
not employed by the plumbing or water industry. 30050

The board shall advise the superintendent on matters 30051
pertaining to the training and certification of backflow 30052
technicians. 30053

(B) The superintendent shall adopt rules in accordance with 30054
Chapter 119. of the Revised Code to provide for the certification 30055
of backflow technicians. The rules shall establish all of the 30056
following requirements, specifications, and procedures: 30057

(1) Requirements and procedures for the initial certification 30058
of backflow technicians, including eligibility criteria and 30059
application requirements and fees; 30060

(2) Specifications concerning and procedures for taking 30061
examinations required for certification as a backflow technician, 30062
including eligibility criteria to take the examination and 30063
application requirements and fees for taking the examination; 30064

(3) Specifications concerning and procedures for renewing a 30065
certification as a backflow technician, including eligibility 30066

criteria, application requirements, and fees for renewal;	30067
(4) Specifications concerning and procedures for both of the following:	30068
	30069
(a) Approval of training agencies authorized to teach required courses to candidates for certification as backflow technicians or continuing education courses to certified backflow technicians;	30070
	30071
	30072
	30073
(b) Renewal of the approval described in division (B)(4)(a) of this section.	30074
	30075
(5) Education requirements that candidates for initial certification as backflow technicians must satisfy and continuing education requirements that certified backflow technicians must satisfy;	30076
	30077
	30078
	30079
(6) Grounds and procedures for denying, suspending, or revoking certification, or denying the renewal of certification, as a backflow technician;	30080
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	30082
(7) Procedures for issuing administrative orders for the remedy of any violation of this section or any rule adopted pursuant to division (B) of this section, including, but not limited to, procedures for assessing a civil penalty authorized under division (D) of this section;	30083
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(8) Any provision the superintendent determines is necessary to administer or enforce this section.	30088
	30089
(C) No individual shall engage in the installation, testing, or repair of any isolation backflow prevention device unless that individual possesses a valid certification as a backflow technician. This division does not apply with respect to the installation, testing, or repair of any containment backflow prevention device.	30090
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(D) Whoever violates division (C) of this section or any rule	30096

adopted pursuant to division (B) of this section shall pay a civil 30097
penalty of not more than five thousand dollars for each day that 30098
the violation continues. The superintendent may, by order, assess 30099
a civil penalty under this division, or may request the attorney 30100
general to bring a civil action to impose the civil penalty in the 30101
court of common pleas of the county in which the violation 30102
occurred or where the violator resides. 30103

(E) Any action taken under a rule adopted pursuant to 30104
division (B)(6) of this section is subject to the appeal process 30105
of Chapter 119. of the Revised Code. An administrative order 30106
issued pursuant to rules adopted under division (B)(7) of this 30107
section and an appeal to that type of administrative order shall 30108
be executed in accordance with Chapter 119. of the Revised Code. 30109

(F) As used in this section: 30110

(1) "Isolation backflow prevention device" means a device for 30111
the prevention of the backflow of liquids, solids, or gases that 30112
is regulated by the building code adopted pursuant to section 30113
3781.10 of the Revised Code and rules adopted pursuant to this 30114
section. 30115

(2) "Containment backflow prevention device" means a device 30116
for the prevention of the backflow of liquids, solids, or gases 30117
that is installed by the supplier of, or as a requirement of, any 30118
public water system as defined in division (A) of section 6109.01 30119
of the Revised Code. 30120

Sec. 3703.99. Whoever violates sections 3703.01 to 3703.08 of 30121
the Revised Code, or any rule the division of ~~labor~~ industrial 30122
compliance is required to enforce under such sections, shall be 30123
fined not less than ten nor more than one hundred dollars or 30124
imprisoned for not less than ten nor more than ninety days, or 30125
both. No person shall be imprisoned under this section for the 30126
first offense, and the prosecution always shall be as for a first 30127

offense unless the affidavit upon which the prosecution is 30128
instituted contains the allegation that the offense is a second or 30129
repeated offense. 30130

Sec. 3704.035. (A) There is hereby created in the state 30131
treasury the Title V clean air fund. Except as otherwise provided 30132
in division (K) of section 3745.11 of the Revised Code, all moneys 30133
collected under ~~divisions (C), (D), (F), (G), (H), (I), and (J)~~ 30134
division (B) of that section and ~~under section 3745.111 of the~~ 30135
~~Revised Code~~, and any gifts, grants, or contributions received by 30136
the director of environmental protection for the purposes of the 30137
fund, shall be credited to the fund. ~~The director shall expend~~ 30138
~~moneys from the fund exclusively to pay the cost of administering~~ 30139
~~and enforcing the laws of this state pertaining to the prevention,~~ 30140
~~control, and abatement of air pollution and rules adopted and~~ 30141
~~terms and conditions of permits, variances, and orders issued~~ 30142
~~under those laws, except that the director shall not expend moneys~~ 30143
~~credited to the fund for the administration and enforcement of~~ 30144
~~motor vehicle inspection and maintenance programs and requirements~~ 30145
~~under sections 3704.14, 3704.141, 3704.16, 3704.161, and 3704.162~~ 30146
~~of the Revised Code.~~ 30147

~~Specifically, the~~ The director shall expend all moneys 30148
credited to the fund ~~from fees assessed under section 3745.11 of~~ 30149
~~the Revised Code pursuant to the Title V permit program~~ 30150
~~established under section 3704.036 of the Revised Code, and from~~ 30151
~~any gifts, grants, or contributions received for the purposes of~~ 30152
~~that program,~~ solely to administer and enforce that the Title V 30153
program pursuant to the federal Clean Air Act, this chapter, and 30154
rules adopted under it, except as costs relating to enforcement 30155
are limited by the federal Clean Air Act. The director shall 30156
establish separate and distinct accounting for all such moneys. 30157

(B) There is hereby created in the state treasury the 30158

non-Title V clean air fund. All money collected under divisions (D), (F), (G), (H), (I), and (J) of section 3745.11 of the Revised Code shall be credited to the fund. In addition, any gifts, grants, or contributions received by the director for the purposes of the fund shall be credited to the fund.

The director shall expend money in the fund exclusively to pay the cost of administering and enforcing the laws of this state pertaining to the prevention, control, and abatement of air pollution, rules adopted under those laws, and terms and conditions of permits, variances, and orders issued under those laws. However, the director shall not expend money credited to the fund for the administration and enforcement of the Title V permit program established under this chapter and rules adopted under it or motor vehicle inspection and maintenance programs established under sections 3704.14, 3704.141, 3704.16, 3704.161, and 3704.162 of the Revised Code.

(C) The director shall report biennially to the general assembly the amounts of fees and other moneys credited to the ~~fund~~ funds under this section and the amounts expended from ~~it~~ them for each of the various air pollution control programs.

Sec. 3705.24. (A)(1) The ~~public director of health council~~ shall, in accordance with section 111.15 of the Revised Code, adopt rules prescribing fees for the following items or services provided by the state office of vital statistics:

(a) Except as provided in division (A)(4) of this section:

(i) A certified copy of a vital record or a certification of birth;

(ii) A search by the office of vital statistics of its files and records pursuant to a request for information, regardless of whether a copy of a record is provided;

(iii) A copy of a record provided pursuant to a request.	30189
(b) Replacement of a birth certificate following an adoption, legitimation, paternity determination or acknowledgement, or court order;	30190 30191 30192
(c) Filing of a delayed registration of a vital record;	30193
(d) Amendment of a vital record that is requested later than one year after the filing date of the vital record;	30194 30195
(e) Any other documents or services for which the public health council <u>director</u> considers the charging of a fee appropriate.	30196 30197 30198
(2) Fees prescribed under division (A)(1)(a) of this section shall not be less than twelve dollars.	30199 30200
(3) Fees prescribed under division (A)(1) of this section shall be collected in addition to any fees required by sections 3109.14 and 3705.242 of the Revised Code.	30201 30202 30203
(4) Fees prescribed under division (A) of this section shall not apply to certifications issued under division (H) of this section or copies provided under section 3705.241 of the Revised Code.	30204 30205 30206 30207
(B) In addition to the fees prescribed under division (A) of this section or section 3709.09 of the Revised Code, the office of vital statistics, the board of health of a city or general health district, or a local registrar of vital statistics who is not a salaried employee of a city or general health district shall charge a five-dollar fee for each certified copy of a vital record and each certification of birth. This fee shall be deposited in the general operations fund created under section 3701.83 of the Revised Code and be used to support the operations, the modernization, and the automation of the vital records program in this state. A board of health or a local registrar shall forward	30208 30209 30210 30211 30212 30213 30214 30215 30216 30217 30218

all fees collected under this division to the department of health 30219
not later than thirty days after the end of each calendar quarter. 30220

(C) Except as otherwise provided in division (H) of this 30221
section, and except as provided in section 3705.241 of the Revised 30222
Code, fees collected by the director of health under sections 30223
3705.01 to 3705.29 of the Revised Code shall be paid into the 30224
state treasury to the credit of the general operations fund 30225
created by section 3701.83 of the Revised Code. Except as provided 30226
in division (B) or (I) of this section, money generated by the 30227
fees shall be used only for administration and enforcement of this 30228
chapter and the rules adopted under it. Amounts submitted to the 30229
department of health for copies of vital records or services in 30230
excess of the fees imposed by this section shall be dealt with as 30231
follows: 30232

(1) An overpayment of two dollars or less shall be retained 30233
by the department and deposited in the state treasury to the 30234
credit of the general operations fund created by section 3701.83 30235
of the Revised Code. 30236

(2) An overpayment in excess of two dollars shall be returned 30237
to the person who made the overpayment. 30238

(D) If a local registrar is a salaried employee of a city or 30239
a general health district, any fees the local registrar receives 30240
pursuant to section 3705.23 of the Revised Code shall be paid into 30241
the general fund of the city or the health fund of the general 30242
health district. 30243

Each local registrar of vital statistics, or each health 30244
district where the local registrar is a salaried employee of the 30245
district, shall be entitled to a fee for each birth, fetal death, 30246
death, or military service certificate properly and completely 30247
made out and registered with the local registrar or district and 30248
correctly copied and forwarded to the office of vital statistics 30249

in accordance with the population of the primary registration 30250
district at the last federal census. The fee for each birth, fetal 30251
death, death, or military service certificate shall be: 30252

(1) In primary registration districts of over two hundred 30253
fifty thousand, twenty cents; 30254

(2) In primary registration districts of over one hundred 30255
twenty-five thousand and less than two hundred fifty thousand, 30256
sixty cents; 30257

(3) In primary registration districts of over fifty thousand 30258
and less than one hundred twenty-five thousand, eighty cents; 30259

(4) In primary registration districts of less than fifty 30260
thousand, one dollar. 30261

(E) The director of health shall annually certify to the 30262
county treasurers of the several counties the number of birth, 30263
fetal death, death, and military service certificates registered 30264
from their respective counties with the names of the local 30265
registrars and the amounts due each registrar and health district 30266
at the rates fixed in this section. Such amounts shall be paid by 30267
the treasurer of the county in which the registration districts 30268
are located. No fees shall be charged or collected by registrars 30269
except as provided by this chapter and section 3109.14 of the 30270
Revised Code. 30271

(F) A probate judge shall be paid a fee of fifteen cents for 30272
each certified abstract of marriage prepared and forwarded by the 30273
probate judge to the department of health pursuant to section 30274
3705.21 of the Revised Code. The fee shall be in addition to the 30275
fee paid for a marriage license and shall be paid by the 30276
applicants for the license. 30277

(G) The clerk of a court of common pleas shall be paid a fee 30278
of one dollar for each certificate of divorce, dissolution, and 30279
annulment of marriage prepared and forwarded by the clerk to the 30280

department pursuant to section 3705.21 of the Revised Code. The 30281
fee for the certified abstract of divorce, dissolution, or 30282
annulment of marriage shall be added to the court costs allowed in 30283
these cases. 30284

(H) The fee for an heirloom certification of birth issued 30285
pursuant to division (B)(2) of section 3705.23 of the Revised Code 30286
shall be an amount prescribed by rule by the director of health 30287
plus any fee required by section 3109.14 of the Revised Code. In 30288
setting the amount of the fee, the director shall establish a 30289
surcharge in addition to an amount necessary to offset the expense 30290
of processing heirloom certifications of birth. The fee prescribed 30291
by the director of health pursuant to this division shall be 30292
deposited into the state treasury to the credit of the heirloom 30293
certification of birth fund which is hereby created. Money 30294
credited to the fund shall be used by the office of vital 30295
statistics to offset the expense of processing heirloom 30296
certifications of birth. However, the money collected for the 30297
surcharge, subject to the approval of the controlling board, shall 30298
be used for the purposes specified by the family and children 30299
first council pursuant to section 121.37 of the Revised Code. 30300

(I)(1) Four dollars of each fee collected by the board of 30301
health of a city or general health district for a certified copy 30302
of a vital record or a certification of birth shall be transferred 30303
to the office of vital statistics not later than thirty days after 30304
the end of each calendar quarter. The amount collected shall be 30305
used to support public health systems. Of each four dollars 30306
collected, one dollar shall be used by the director of health to 30307
pay subsidies to boards of health. The subsidies shall be 30308
distributed in accordance with the same formula established under 30309
section 3701.342 of the Revised Code for the distribution of state 30310
health district subsidy funds to boards of health and local health 30311
departments. 30312

(2) Four dollars of each fee collected by a local registrar of vital statistics who is not a salaried employee of a city or general health district, for a certified copy of a vital record or certification of birth, shall be transferred to the office of vital statistics not later than thirty days after the end of each calendar quarter. The amount collected shall be used to support public health systems.

Sec. 3705.30. (A) As used in this section:

(1) "Freestanding birthing center" has the same meaning as in section ~~3702.51~~ 3702.141 of the Revised Code.

(2) "Hospital" means a hospital classified under section 3701.07 of the Revised Code as a general hospital or children's hospital.

(3) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(B) The director of health shall establish and, if funds for this purpose are available, implement a statewide birth defects information system for the collection of information concerning congenital anomalies, stillbirths, and abnormal conditions of newborns.

(C) If the system is implemented under division (B) of this section, all of the following apply:

(1) The director may require each physician, hospital, and freestanding birthing center to report to the system information concerning all patients under five years of age with a primary diagnosis of a congenital anomaly or abnormal condition. The director shall not require a hospital, freestanding birthing center, or physician to report to the system any information that is reported to the director or department of health under another

provision of the Revised Code or Administrative Code. 30343

(2) On request, each physician, hospital, and freestanding 30344
birthing center shall give the director or authorized employees of 30345
the department of health access to the medical records of any 30346
patient described in division (C)(1) of this section. The 30347
department shall pay the costs of copying any medical records 30348
pursuant to this division. 30349

(3) The director may review vital statistics records and 30350
shall consider expanding the list of congenital anomalies and 30351
abnormal conditions of newborns reported on birth certificates 30352
pursuant to section 3705.08 of the Revised Code. 30353

(D) A physician, hospital, or freestanding birthing center 30354
that provides information to the system under division (C) of this 30355
section shall not be subject to criminal or civil liability for 30356
providing the information. 30357

Sec. 3706.19. (A) There is hereby created in the Ohio air 30358
quality development authority the office of ~~ombudsman~~ ombudsperson 30359
for the small business stationary source technical and 30360
environmental compliance assistance program created under section 30361
3704.18 of the Revised Code. The office shall exercise its duties 30362
independently of any other state agency. 30363

(B) ~~Not later than one year after the effective date of this~~ 30364
~~section, the~~ The governor, with the advice and consent of the 30365
senate, shall appoint the ~~initial ombudsman~~ ombudsperson. The 30366
~~ombudsman~~ ombudsperson shall serve for a term of four years. The 30367
person who is appointed to serve as the ~~ombudsman~~ ombudsperson 30368
shall be experienced in management and in working with private 30369
enterprise and government entities, knowledgeable in the areas of 30370
arbitration and negotiation, experienced in interpreting statutory 30371
and regulatory law, and knowledgeable in investigation techniques 30372
and procedures, recordkeeping, and report writing. The ~~ombudsman~~ 30373

ombudsperson may be the highest ranking managerial employee of the authority. 30374
30375

(C) The ~~ombudsman~~ ombudsperson shall do all of the following: 30376

(1) Ensure that the goals of the program are being met; 30377

(2) Conduct independent evaluations of all aspects of the program; 30378
30379

(3) Review the development and implementation of air pollution control requirements that have an impact on small businesses in the state and provide comments and recommendations, as appropriate, to the environmental protection agency and the United States environmental protection agency; 30380
30381
30382
30383
30384

(4) Facilitate and promote the participation of small businesses in the development of rules to be adopted under Chapter 3704. of the Revised Code that affect small businesses; 30385
30386
30387

(5) Aid in the dissemination of information, including air pollution requirements and control technologies, to small businesses and other interested persons; 30388
30389
30390

(6) Provide free, confidential assistance on individual source problems and grievances presented by small businesses; 30391
30392

(7) Aid in investigating and resolving complaints against, and disputes involving, the agency from small businesses; 30393
30394

(8) Refer small businesses to the appropriate specialist in the program from whom they may obtain information and assistance on affordable alternative technologies, process changes, and products and operational methods to help reduce air pollution and accidental releases; 30395
30396
30397
30398
30399

(9) Work with trade associations and small businesses to effect voluntary compliance with the federal Clean Air Act, Chapter 3704. of the Revised Code, and rules adopted under it; 30400
30401
30402

(10) Work with other states to establish a network for 30403

sharing information on small businesses and their efforts to 30404
comply with the federal Clean Air Act and state and local air 30405
pollution control laws; 30406

(11) Seek public and private funding sources that can 30407
financially assist small businesses that are in need of moneys to 30408
comply with air pollution control laws; 30409

(12) Conduct studies to evaluate the impacts of the federal 30410
Clean Air Act on the state's economy, local economies, and small 30411
businesses. 30412

(D) There is hereby created in the state treasury the small 30413
business ~~ombudsman~~ ombudsperson fund, which shall consist of 30414
moneys transferred to it from the Title V clean air fund created 30415
in section 3704.035 of the Revised Code. Moneys in the fund shall 30416
be used exclusively for the purposes of this section. 30417

The director of environmental protection and the executive 30418
director of the authority annually shall determine the amount of 30419
moneys necessary for the operation of the office of the ~~ombudsman~~ 30420
ombudsperson. Thereafter, the director shall request the director 30421
of budget and management to, and that director shall, transfer 30422
that amount of moneys from the Title V clean air fund to the small 30423
business ~~ombudsman~~ ombudsperson fund. 30424

(E) There is hereby created in the state treasury the small 30425
business assistance fund, which shall consist of moneys credited 30426
to it under division (K) of section 3745.11 of the Revised Code. 30427
The ~~ombudsman~~ ombudsperson shall use moneys in the fund solely to 30428
provide financial assistance to small businesses that have one 30429
hundred or fewer employees and that are having financial 30430
difficulty complying with the "Clean Air Act Amendments of 1990," 30431
104 Stat. 2399, 42 U.S.C.A. 7401, and regulations adopted under 30432
it. 30433

In accordance with Chapter 119. of the Revised Code, the 30434

~~ombudsman~~ ombudsperson shall adopt rules establishing procedures 30435
and requirements governing grants awarded under this division. 30436

Sec. 3709.03. (A) There is hereby created in each general 30437
health district a district advisory council. A council shall 30438
consist of the president of the board of county commissioners, the 30439
chief executive of each municipal corporation not constituting a 30440
city health district, and the president of the board of township 30441
trustees of each township. The board of county commissioners, the 30442
legislative body of a municipal corporation, and the board of 30443
township trustees of a township may select an alternate from among 30444
themselves to serve if the president, the chief executive, or the 30445
president of the board of township trustees is unable to attend 30446
any meeting of the district advisory council. When attending a 30447
meeting on behalf of a council member, the alternate may vote on 30448
any matter on which the member is authorized to vote. 30449

The council shall organize by selecting a chair and secretary 30450
from among its members. The council shall adopt bylaws governing 30451
its meetings, the transaction of business, and voting procedures. 30452

The council shall meet annually in March at a place 30453
determined by the chair and the health commissioner for the 30454
purpose of electing the chair and the secretary, making necessary 30455
appointments to the board of health, receiving and considering the 30456
annual or special reports from the board of health, and making 30457
recommendations to the board of health or to the department of 30458
health in regard to matters for the betterment of health and 30459
sanitation within the district or for needed legislation. The 30460
secretary of the council shall notify the district health 30461
commissioner and the director of health of the proceedings of such 30462
meeting. 30463

Special meetings of the council shall be held on the order of 30464
any of the following: 30465

(1) The director of health;	30466
(2) The board of health;	30467
(3) The lesser of five or a majority of district advisory council members.	30468 30469
The district health commissioner shall attend all meetings of the council.	30470 30471
(B) The district advisory council shall appoint four members of the board of health, and the remaining member shall be appointed by the health district licensing council established under section 3709.41 of the Revised Code. At least one member of the board of health shall be a physician. Appointments shall be made with due regard to equal representation of all parts of the district.	30472 30473 30474 30475 30476 30477 30478
(C) If at an annual or special meeting at which a member of the board of health is to be appointed fewer than a majority of the members of the district council are present, the council, by the majority vote of council members present, may organize an executive committee to make the appointment. An executive committee shall consist of five council members, including the president of the board of county commissioners, the council chair, the council secretary, and two additional council members selected by majority affirmative vote of the council members present at the meeting. The additional members selected shall include one representative of municipal corporations in the district that are not city health districts and one representative of townships in the district. If an individual is eligible for more than one position on the executive committee due to holding a particular office, the individual shall fill one position on the committee and the other position shall be filled by a member selected by a majority affirmative vote of the council members present at the meeting. A council member's alternate for annual meetings may	30479 30480 30481 30482 30483 30484 30485 30486 30487 30488 30489 30490 30491 30492 30493 30494 30495 30496

serve as the member's alternate at meetings of the executive 30497
committee. 30498

Not later than thirty days after an executive committee is 30499
organized, the committee shall meet and the council chair shall 30500
present to the committee the matter of appointing a member of the 30501
board of health. The committee shall appoint the board member by 30502
majority affirmative vote. In the case of a combined health 30503
district, the executive committee shall appoint only members of 30504
the board of health that are to be appointed by the district 30505
advisory council, unless the contract for administration of health 30506
affairs in the combined district provides otherwise. If a majority 30507
affirmative vote is not reached within thirty days after the 30508
executive committee is organized, the director of health shall 30509
appoint the member of the board of health under the authority 30510
conferred by section 3709.03 of the Revised Code. 30511

If the council fails to meet or appoint a member of the board 30512
of health as required by this section or section 3709.02 of the 30513
Revised Code, the director of health, ~~with the consent of the~~ 30514
~~public health council,~~ may appoint the member. 30515

Sec. 3709.04. If in any general health district the district 30516
advisory council fails to meet or to select a board of health, the 30517
director of health may, ~~with the consent of the public health~~ 30518
~~council,~~ appoint a board of health for such district which shall 30519
have and exercise all powers conferred on a board of health of a 30520
general health district. 30521

Sec. 3709.06. If any city fails to establish a board of 30522
health under section 3709.05 of the Revised Code, the director of 30523
health, ~~with the approval of the public health council,~~ may 30524
appoint a health commissioner for such city, and fix his the 30525
commissioner's salary and term of office. Such commissioner shall 30526

have the same powers and perform the duties granted to or imposed 30527
upon a board of health of a city health district, except that 30528
rules, regulations, or orders of a general nature, made by ~~him~~ the 30529
commissioner and required to be published, shall be approved by 30530
the director. The salary of such commissioner and all necessary 30531
expenses incurred by ~~him~~ the commissioner in performing the duties 30532
of the board shall be paid by and be a valid claim against such 30533
city. 30534

Sec. 3709.085. (A) The board of health of a city or general 30535
health district may enter into a contract with any political 30536
subdivision or other governmental agency to obtain or provide all 30537
or part of any services, including, but not limited to, 30538
enforcement services, for the purposes of Chapter 3704. of the 30539
Revised Code, the rules adopted and orders made pursuant thereto, 30540
or any other ordinances or rules for the prevention, control, and 30541
abatement of air pollution. 30542

(B)(1) As used in division (B)(2) of this section: 30543

(a) "Semipublic disposal system" means a disposal system that 30544
treats the sanitary sewage discharged from publicly or privately 30545
owned buildings or places of assemblage, entertainment, 30546
recreation, education, correction, hospitalization, housing, or 30547
employment, but does not include a disposal system that treats 30548
sewage in amounts of more than twenty-five thousand gallons per 30549
day; a disposal system for the treatment of sewage that is exempt 30550
from the requirements of section 6111.04 of the Revised Code 30551
pursuant to division (F)(7) of that section; or a disposal system 30552
for the treatment of industrial waste. 30553

(b) Terms defined in section 6111.01 of the Revised Code have 30554
the same meanings as in that section. 30555

(2) The board of health of a city or general health district 30556
may enter into a contract with the environmental protection agency 30557

to conduct on behalf of the agency inspection or enforcement 30558
services, for the purposes of Chapter 6111. of the Revised Code 30559
and rules adopted thereunder, for the disposal or treatment of 30560
sewage from semipublic disposal systems. The board of health of a 30561
city or general health district may charge a fee established 30562
pursuant to section 3709.09 of the Revised Code to be paid by the 30563
owner or operator of a semipublic disposal system for inspections 30564
conducted by the board pursuant to a contract entered into under 30565
division (B)(2) of this section, except that the board shall not 30566
charge a fee for those inspections conducted at any recreational 30567
vehicle park, recreation camp, or combined park-camp that is 30568
licensed under section 3729.05 of the Revised Code or at any 30569
manufactured home park that is licensed under section ~~3733.03~~ 30570
4781.27 of the Revised Code. 30571

Sec. 3709.09. (A) The board of health of a city or general 30572
health district may, by rule, establish a uniform system of fees 30573
to pay the costs of any services provided by the board. 30574

The fee for issuance of a certified copy of a vital record or 30575
a certification of birth shall not be less than the fee prescribed 30576
for the same service under division (A)(1) of section 3705.24 of 30577
the Revised Code and shall include the fees required by division 30578
(B) of section 3705.24 and section 3109.14 of the Revised Code. 30579

Fees for services provided by the board for purposes 30580
specified in sections 3701.344, 3711.10, 3718.06, 3729.07, 30581
3730.03, and 3749.04 of the Revised Code shall be established in 30582
accordance with rules adopted under division (B) of this section. 30583
The district advisory council, in the case of a general health 30584
district, and the legislative authority of the city, in the case 30585
of a city health district, may disapprove any fee established by 30586
the board of health under this division, and any such fee, as 30587
disapproved, shall not be charged by the board of health. 30588

(B) The ~~public director of health council~~ shall adopt rules 30589
under section 111.15 of the Revised Code that establish fee 30590
categories and a uniform methodology for use in calculating the 30591
costs of services provided for purposes specified in sections 30592
3701.344, 3711.10, 3718.06, 3729.07, 3730.03, and 3749.04 of the 30593
Revised Code. In adopting the rules, the ~~public health council~~ 30594
director shall consider recommendations it receives from advisory 30595
boards established either by statute or the director ~~of health~~ for 30596
entities subject to the fees. 30597

(C) Except when a board of health establishes a fee by 30598
adopting a rule as an emergency measure, the board of health shall 30599
hold a public hearing regarding each proposed fee for a service 30600
provided by the board for a purpose specified in section 3701.344, 30601
3711.10, 3718.06, 3729.07, 3730.03, or 3749.04 of the Revised 30602
Code. If a public hearing is held, at least twenty days prior to 30603
the public hearing the board shall give written notice of the 30604
hearing to each entity affected by the proposed fee. The notice 30605
shall be mailed to the last known address of each entity and shall 30606
specify the date, time, and place of the hearing and the amount of 30607
the proposed fee. 30608

(D) If payment of a fee established under this section is not 30609
received by the day on which payment is due, the board of health 30610
shall assess a penalty. The amount of the penalty shall be equal 30611
to twenty-five per cent of the applicable fee. 30612

(E) All rules adopted by a board of health under this section 30613
shall be adopted, recorded, and certified as are ordinances of 30614
municipal corporations and the record thereof shall be given in 30615
all courts the same effect as is given such ordinances, but the 30616
advertisements of such rules shall be by publication in one 30617
newspaper of general circulation within the health district. 30618
Publication shall be made once a week for two consecutive weeks or 30619
as provided in section 7.16 of the Revised Code, and such rules 30620

shall take effect and be in force ten days from the date of the 30621
first publication. 30622

Sec. 3709.092. (A) A board of health of a city or general 30623
health district shall transmit to the director of health all fees 30624
or additional amounts that the ~~public health council~~ director 30625
requires to be collected under sections 3701.344, 3718.06, 30626
3729.07, and 3749.04 of the Revised Code. The fees and amounts 30627
shall be transmitted according to the following schedule: 30628

(1) For fees and amounts received by the board on or after 30629
the first day of January but not later than the thirty-first day 30630
of March, transmit the fees and amounts not later than the 30631
fifteenth day of May; 30632

(2) For fees and amounts received by the board on or after 30633
the first day of April but not later than the thirtieth day of 30634
June, transmit the fees and amounts not later than the fifteenth 30635
day of August; 30636

(3) For fees and amounts received by the board on or after 30637
the first day of July but not later than the thirtieth day of 30638
September, transmit the fees and amounts not later than the 30639
fifteenth day of November; 30640

(4) For fees and amounts received by the board on or after 30641
the first day of October but not later than the thirty-first day 30642
of December, transmit the fees and amounts not later than the 30643
fifteenth day of February of the following year. 30644

(B) The director shall deposit the fees and amounts received 30645
under this section into the state treasury to the credit of the 30646
general operations fund created in section 3701.83 of the Revised 30647
Code. Each amount shall be used solely for the purpose for which 30648
it was collected. 30649

Sec. 3709.32. The president of each board of health providing 30650

health services in one or more health districts and the chief 30651
executive officer of each health department providing health 30652
services in one or more health districts shall, on or before the 30653
first day of March of each year, certify the amounts expended 30654
during the preceding calendar year which qualify for state health 30655
district subsidy funds under section 3701.342 of the Revised Code 30656
and rules ~~of~~ adopted by the public director of health council. The 30657
director of health shall certify the amount payable under the 30658
state health district subsidy funds distribution formula adopted 30659
by the ~~public director of health council~~ under section 3701.342 of 30660
the Revised Code to the director of budget and management for 30661
payment. Payment shall not be made unless: 30662

(A) The board or department has provided such information 30663
concerning services and costs as is requested by the director of 30664
health; 30665

(B) The certificate of the board of health or health 30666
department has been endorsed by the director of health; 30667

(C) The board or department has complied with section 30668
3701.342 of the Revised Code and ~~public health council~~ rules 30669
adopted by the director of health; 30670

(D) The municipal corporations and townships composing the 30671
health district have provided adequate local funding for public 30672
health services. The ~~public director of health council~~ shall 30673
determine what constitutes adequate local funding, and may grant 30674
an exception to this requirement to a municipal corporation or 30675
township if unusually severe economic conditions prevent it from 30676
receiving adequate tax revenues to help support minimally 30677
acceptable public health services. 30678

No state health district subsidy funds shall be granted to 30679
any board or department that decreases its appropriation for 30680
public health services in anticipation of using state funds to 30681

provide public health services normally supported by local 30682
revenues. 30683

Sec. 3709.35. If the director of health ~~finds~~ charges that 30684
the health commissioner or a member of the board of health of a 30685
health district is guilty of misfeasance, malfeasance, or 30686
nonfeasance or has failed to perform any or all of the duties 30687
required by sections 3701.10, 3701.29, 3701.81, 3707.08, 3707.14, 30688
3707.16, 3707.47, and 3709.01 to 3709.36 of the Revised Code, the 30689
director ~~shall prefer a charge against the commissioner or board~~ 30690
~~member before the public health council and~~ shall notify the 30691
commissioner or board member as to the time and place at which 30692
such charges will be heard. If the ~~council~~ director, after 30693
hearing, finds the commissioner or board member guilty of the 30694
charge, it may remove such commissioner or member from office. 30695

If the lesser of three or one-fifth of the members of a 30696
district advisory council have reason to believe a member of the 30697
board of health of a general health district is guilty of 30698
misfeasance, malfeasance, or nonfeasance or has failed to perform 30699
any or all of the duties required by sections 3701.10, 3701.29, 30700
3701.81, 3707.14, 3707.16, 3707.47, and 3709.01 to 3709.36 of the 30701
Revised Code, the district advisory council members shall prefer a 30702
charge against the board member before the district advisory 30703
council and shall notify the board member as to the time and place 30704
at which such charges will be heard. If a majority of the council, 30705
after hearing, finds the board member guilty of the charge, it may 30706
remove the member from office. 30707

When any member of the board of health of a general or city 30708
health district is removed from office, the district advisory 30709
council or the chief executive of the city, upon notice of such 30710
removal, shall within thirty days after receipt of such notice 30711
fill the vacancy in accordance with section 3709.03 or 3709.05 of 30712

the Revised Code. 30713

Sec. 3710.01. As used in this chapter: 30714

(A) "Asbestos" means the asbestiform varieties of chrysotile 30715
or serpentine, amosite or cummingtonitegrunerite, crocidolite or 30716
riebeckite, actinolite, tremolite, and anthophyllite. 30717

(B) "Asbestos hazard abatement activity" means any activity 30718
involving the removal, renovation, enclosure, repair, or 30719
encapsulation of reasonably related friable asbestos-containing 30720
materials in an amount greater than fifty linear feet or fifty 30721
square feet. "Asbestos hazard abatement activity" also includes 30722
any such activity involving such asbestos-containing materials in 30723
an amount of fifty linear or fifty square feet or less if, when 30724
combined with any other reasonably related activity in terms of 30725
time and location of the activity, the total amount is in an 30726
amount greater than fifty linear or fifty square feet. 30727

(C) "Asbestos hazard abatement contractor" means a business 30728
entity or public entity that engages in or intends to engage in 30729
asbestos hazard abatement activities and that employs or 30730
supervises one or more asbestos hazard abatement specialists for 30731
asbestos hazard abatement activities. "Asbestos hazard abatement 30732
contractor" does not mean an employee of an asbestos hazard 30733
abatement contractor, a general contractor who subcontracts to an 30734
asbestos hazard abatement contractor an asbestos hazard abatement 30735
activity, or any individual who engages in asbestos hazard 30736
abatement activity in ~~his~~ the individual's own home. 30737

(D) "Asbestos hazard abatement project" means one or more 30738
asbestos hazard abatement activities that are conducted by one 30739
asbestos hazard abatement contractor and that are reasonably 30740
related to each other. 30741

(E) "Asbestos hazard abatement specialist" means a person 30742

with responsibility for the oversight or supervision of asbestos 30743
hazard abatement activities, including asbestos hazard abatement 30744
project managers, hazard abatement project supervisors and 30745
foremen, and employees of school districts or other governmental 30746
or public entities who coordinate or directly supervise or oversee 30747
asbestos hazard abatement activities performed by school district, 30748
governmental, or other public employees in school district, 30749
governmental, or other public buildings. 30750

(F) "Asbestos hazard evaluation specialist" means a person 30751
responsible for the identification, detection, and assessment of 30752
asbestos-containing materials, the determination of appropriate 30753
response actions, or the preparation of asbestos management plans 30754
for the purpose of protecting the public health from the hazards 30755
associated with exposure to asbestos, including the performance of 30756
air and bulk sampling. This category of specialists includes 30757
management planners, health professionals, industrial hygienists, 30758
private consultants, or other individuals involved in asbestos 30759
risk identification or assessment or regulatory activities. 30760

(G) "Business entity" means a partnership, firm, association, 30761
corporation, sole proprietorship, or other business concern. 30762

(H) "Public entity" means the state or any of its political 30763
subdivisions or any agency or instrumentality of either. 30764

(I) "License" means a document issued by the department of 30765
health to a business entity or public entity affirming that the 30766
entity has met the requirements set forth in this chapter to 30767
engage in asbestos hazard abatement activities as an asbestos 30768
hazard abatement contractor. 30769

(J) "Certificate" means: 30770

(1) A document issued by the department to an individual 30771
affirming that the individual has successfully completed the 30772
training and other requirements set forth in this chapter to 30773

qualify as an asbestos hazard abatement specialist, an asbestos 30774
hazard evaluation specialist, an asbestos hazard abatement worker, 30775
an asbestos hazard abatement project designer, an asbestos hazard 30776
abatement air-monitoring technician, an approved asbestos hazard 30777
training provider, or other category of asbestos hazard specialist 30778
that the ~~public health council~~ director establishes by rule; or 30779

(2) A document issued by a training institution in accordance 30780
with rules adopted by the ~~public health council~~ director affirming 30781
that an individual has successfully completed the instruction 30782
required in all categories as provided in sections 3710.07 and 30783
3710.10 of the Revised Code. 30784

(K) "Person" means any individual, business entity, 30785
governmental body, or other public or private entity. 30786

(L) "Encapsulate" means to coat, bind, or resurface walls, 30787
ceilings, pipes, or other structures to prevent friable asbestos 30788
from becoming airborne. 30789

(M) "Friable asbestos-containing material" means any material 30790
that contains more than one per cent asbestos by weight and that 30791
can be crumbled, pulverized, or reduced to powder, when dry, by 30792
hand pressure. 30793

(N) "Enclosure" means the permanent confinement of friable 30794
asbestos-containing materials with an airtight barrier in an area 30795
not used as an air plenum. 30796

(O) "Renovation" means the removal or stripping of friable 30797
asbestos-containing materials used on any pipe, duct, boiler, 30798
tank, reactor, turbine, furnace, or load supporting member. 30799

(P) "Asbestos hazard abatement worker" means the person 30800
responsible in a nonsupervisory capacity for the performance of an 30801
asbestos hazard abatement activity. 30802

(Q) "Asbestos hazard abatement project designer" means the 30803

person responsible for the determination of the workscope, work 30804
sequence, or performance standards for an asbestos hazard 30805
abatement activity, including preparation of specifications, 30806
plans, and contract documents. 30807

(R) "Director" means the director of health or ~~his~~ the 30808
director's authorized representative. 30809

(S) "Clearance air sampling" means an air sampling performed 30810
after the completion of any asbestos hazard abatement activity and 30811
prior to the reoccupation of the contained work area by the public 30812
and conducted for the purpose of protecting the public from the 30813
health hazards associated with exposure to friable 30814
asbestos-containing material. 30815

(T) "Asbestos hazard abatement air-monitoring technician" 30816
means the person who is responsible for environmental monitoring 30817
or work area clearance air sampling, including air monitoring 30818
performed to determine completion of response actions under the 30819
rules set forth in 40 C.F.R. 763 Subpart E, adopted by the United 30820
States environmental protection agency pursuant to the "Asbestos 30821
Hazard Emergency Response Act of 1986," Pub. L. 99-519, 100 Stat. 30822
2970. "Asbestos hazard abatement air-monitoring technician" does 30823
not mean an industrial hygienist or industrial hygienist in 30824
training, certified by the American board of industrial hygiene. 30825

Sec. 3710.02. (A) ~~Subject to~~ In accordance with Chapter 119. 30826
of the Revised Code, the ~~public~~ director of health council shall, 30827
as ~~it~~ the director determines necessary, adopt rules to carry out 30828
this chapter. The rules shall include all of the following: 30829

(1) Criteria and procedures for the certification of asbestos 30830
hazard abatement specialists, asbestos hazard evaluation 30831
specialists, asbestos hazard abatement workers, asbestos hazard 30832
abatement project designers, and asbestos hazard abatement 30833
air-monitoring technicians by the director of health; 30834

(2) Criteria and procedures for the director to examine the records of licensees, certificate holders, and asbestos hazard abatement training schools;	30835
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	30837
(3) Procedures and criteria in addition to those provided in this chapter for the approval of courses for asbestos hazard training;	30838
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(4) Fees for licenses, certifications, and course approvals in excess of the levels set in section 3710.05 of the Revised Code and fees for the certification of asbestos hazard abatement air-monitoring technicians;	30841
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(5) Levels of asbestos exposure or other circumstances constituting a public health emergency that authorize the director to issue an emergency order under division (B) of section 3710.13 of the Revised Code;	30845
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	30848
(6) Employee training standards, work practices that reduce the risk of contamination and recontamination of the environment, record-keeping requirements, action levels, project clearance levels, and other requirements that asbestos hazard abatement contractors, asbestos hazard abatement specialists, asbestos hazard evaluation specialists, asbestos hazard abatement project designers, asbestos hazard abatement air-monitoring technicians, asbestos hazard abatement workers, and other persons involved with asbestos hazard abatement activities must follow for the prevention of hazard to the public;	30849
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(7) Worker protection equipment and practices and other health and safety standards for employees and agents of public entities coming in contact with asbestos through asbestos hazard abatement activity;	30859
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	30862
(8) Standards of acceptable conduct for licensees and certificate holders engaged in asbestos hazard abatement or evaluation activities and acts and omissions that constitute	30863
	30864
	30865

grounds for the suspension or revocation of a license or 30866
certificate, or the denial of an application or renewal of a 30867
license or certificate in addition to those otherwise provided in 30868
this chapter; 30869

(9) Training requirements for asbestos hazard abatement 30870
project designers and asbestos hazard abatement air-monitoring 30871
technicians; 30872

(10)(a) Subject to the condition specified in division 30873
(A)(10)(b) of this section, a standard requiring that the amount 30874
of asbestos contained in the air in areas accessible to the public 30875
in buildings that are owned, operated, or leased by a public 30876
entity be not more than ten thousand asbestos fibers longer than 30877
five microns per cubic meter of air calculated as an eight-hour 30878
time-weighted average, which is measured during periods of normal 30879
building occupancy, and a requirement that measurement of airborne 30880
asbestos be made by either or both of the following methods, 30881
provided that results derived by use of the method described in 30882
division (A)(10)(a)(i) of this section supersede results derived 30883
by use of the method described in division (A)(10)(a)(ii) of this 30884
section if both methods are used and the methods yield conflicting 30885
results concerning the presence of fibers in the tested air that 30886
may not be asbestos: 30887

(i) Transmission electron microscopy in the manner described 30888
in the measurement protocol established by the United States 30889
environmental protection agency as set forth in 40 C.F.R. 763; 30890

(ii) Optical phase contrast microscopy in the manner 30891
described in the measurement protocol established by the United 30892
States occupational safety and health administration as set forth 30893
in 29 C.F.R. 1910. 30894

(b) The ~~public health council~~ director periodically shall 30895
review the standard required by division (A)(10)(a) of this 30896

section and determine whether and how it should be amended and how 30897
it shall be used in conjunction with visual and physical 30898
assessment of asbestos-containing materials located in buildings 30899
that are owned, operated, or leased by a public entity to 30900
determine appropriate and cost-effective response actions to such 30901
asbestos-containing materials and shall amend the standard if it 30902
determines that such action is necessary. 30903

(11) Other rules that the ~~public health council~~ director 30904
determines necessary for the implementation of this chapter and to 30905
protect the public health from the hazards associated with 30906
exposure to asbestos. 30907

(B) The director shall do all of the following: 30908

(1) Administer and enforce this chapter and the rules ~~of the~~ 30909
~~public health council~~ adopted pursuant thereto; 30910

(2) Develop comprehensive programs and policies for the 30911
control and prevention of nonoccupational exposure of the public 30912
to friable asbestos-containing materials; 30913

(3) Ensure that persons are trained and licensed or 30914
certified, where appropriate, in accordance with this chapter and 30915
the rules ~~of the public health council~~ adopted pursuant thereto; 30916

(4) Examine those records of licensed asbestos hazard 30917
abatement contractors, certified asbestos hazard abatement 30918
specialists, asbestos hazard evaluation specialists, asbestos 30919
hazard abatement project designers, asbestos hazard abatement 30920
air-monitoring technicians, and asbestos hazard training courses 30921
in accordance with rules adopted by the ~~public health council~~ 30922
director as ~~he~~ the director determines necessary to determine 30923
compliance with this chapter and the rules ~~of the public health~~ 30924
~~council~~ adopted pursuant thereto; 30925

(5) Prohibit and prevent improper asbestos hazard abatement 30926
procedures and require the modification or alteration of asbestos 30927

abatement procedures as they relate to this chapter and the rules 30928
of ~~the public health council~~ adopted pursuant thereto; 30929

(6) Collect and disseminate health education information 30930
relating to safe management of asbestos hazards; 30931

(7) Accept and administer grants from the federal government 30932
and other sources, both public and private, for carrying out any 30933
of ~~his~~ the director's functions; 30934

(8) As ~~he~~ the director determines appropriate, conduct 30935
on-site inspections at any location where an asbestos hazard 30936
abatement activity is planned, in progress, or has been completed, 30937
at any location where a public health emergency may occur, is 30938
occurring, or has occurred, or to evaluate the performance or 30939
compliance of any person subject to this chapter; 30940

(9) Conduct an on-site audit of each asbestos hazard training 30941
provider approved pursuant to this chapter, at least once 30942
biennially, during an actual course conducted by the provider 30943
within the state; 30944

(10) Cooperate and assist in investigations, as such relate 30945
to this chapter, conducted by local law enforcement agencies, the 30946
Ohio environmental protection agency, the United States 30947
occupational safety and health administration, and other local, 30948
state, and federal agencies. 30949

Sec. 3710.04. (A) To qualify for an asbestos hazard abatement 30950
contractor's license, a business entity or public entity shall 30951
meet the requirements of this section. 30952

(B) Each employee or agent of the business entity or public 30953
entity applying for a license who will come in contact with 30954
asbestos or will be responsible for an asbestos hazard abatement 30955
project shall: 30956

(1) Be familiar with all applicable state and federal 30957

standards for asbestos hazard abatement projects; 30958

(2) Have successfully completed the course of instruction on 30959
asbestos hazard abatement activities, for their particular 30960
certification, approved by the department of health pursuant to 30961
section 3710.10 of the Revised Code, have passed an examination 30962
approved by the department, and demonstrate to the department that 30963
~~he~~ the employee or agent is capable of complying with all 30964
applicable standards of this state, the United States 30965
environmental protection agency, and the United States 30966
occupational safety and health administration. 30967

(C) A business entity or public entity applying for an 30968
asbestos hazard abatement contractor's license shall, in addition 30969
to the other requirements of this section, provide at least one 30970
asbestos hazard abatement specialist, certified pursuant to this 30971
chapter and the rules ~~of the public health council~~ adopted 30972
~~pursuant thereto~~ under it, for each asbestos hazard abatement 30973
project, and demonstrate to the satisfaction of the department 30974
that ~~he~~ the applicant: 30975

(1) Has access to at least one asbestos disposal site 30976
approved by the Ohio environmental protection agency that is 30977
sufficient for the deposit of all asbestos waste that ~~he~~ the 30978
applicant will generate during the term of the license; 30979

(2) Is sufficiently qualified to safely remove asbestos, 30980
demonstrated by reliability as an asbestos hazard abatement 30981
contractor, possesses a work program that prevents the 30982
contamination or recontamination of the environment and protects 30983
the public health from the hazards of exposure to asbestos, 30984
possesses evidence of certification of each individual employee or 30985
agent who will be responsible for others who may come in contact 30986
with friable asbestos-containing materials, possesses evidence of 30987
training of workers required by section 3710.07 of the Revised 30988
Code, and has prior successful experience in asbestos hazard 30989

abatement projects or equivalent qualifications as determined by 30990
~~rule~~ in accordance with rules adopted by the public director of 30991
health ~~council~~; 30992

(3) Possesses a worker protection program consistent with 30993
requirements established by the ~~public health council~~ director if 30994
the contractor is a public entity, and a worker protection program 30995
consistent with the requirements of the United States occupational 30996
safety and health administration if the contractor is a business 30997
entity; 30998

(4) Is registered as a business entity with the secretary of 30999
state. 31000

(D) No applicant for licensure as an asbestos hazard 31001
abatement contractor, in order to meet the requirements of this 31002
chapter, shall list an employee of another contractor. 31003

(E) The business entity or public entity shall meet any other 31004
standards that the ~~public health council~~ director, by rule, sets. 31005

(F) Nothing in this chapter or the rules adopted pursuant 31006
thereto relating to asbestos hazard abatement project designers 31007
shall be interpreted as authorizing or permitting an individual 31008
who is certified as an asbestos hazard abatement project designer 31009
to perform the services of a registered architect or professional 31010
engineer unless that person is registered under Chapter 4703. or 31011
4733. of the Revised Code to perform such services. 31012

Sec. 3710.05. (A) Except as otherwise provided in this 31013
chapter, no person shall engage in any asbestos hazard abatement 31014
activities in this state unless licensed or certified pursuant to 31015
this chapter. 31016

(B) To apply for licensure as an asbestos abatement 31017
contractor or certification as an asbestos hazard abatement 31018
specialist, an asbestos hazard evaluation specialist, an asbestos 31019

hazard abatement project designer, or an asbestos hazard abatement 31020
air-monitoring technician, a person shall do all of the following: 31021

(1) Submit a completed application to the department of 31022
health, on a form provided by the department; 31023

(2) Pay the requisite fee as provided in division (D) of this 31024
section; 31025

(3) Submit any other information the ~~public~~ director of 31026
health ~~council~~ by rule requires. 31027

(C) The application form for a business entity or public 31028
entity applying for an asbestos hazard abatement contractor's 31029
license shall include all of the following: 31030

(1) A description of the protective clothing and respirators 31031
that the public entity will use to comply with rules adopted by 31032
the ~~public health council~~ director and that the business entity 31033
will use to comply with requirements of the United States 31034
occupational safety and health administration; 31035

(2) A description of procedures the business entity or public 31036
entity will use for the selection, utilization, handling, removal, 31037
and disposal of clothing to prevent contamination or 31038
recontamination of the environment and to protect the public 31039
health from the hazards associated with exposure to asbestos; 31040

(3) The name and address of each asbestos disposal site that 31041
the business entity or public entity might use during the year; 31042

(4) A description of the site decontamination procedures that 31043
the business entity or public entity will use; 31044

(5) A description of the asbestos hazard abatement procedures 31045
that the business entity or public entity will use; 31046

(6) A description of the procedures that the business entity 31047
or public entity will use for handling waste containing asbestos; 31048

(7) A description of the air-monitoring procedures that the 31049

business entity or public entity will use to prevent contamination 31050
or recontamination of the environment and to protect the public 31051
health from the hazards of exposure to asbestos; 31052

(8) A description of the final clean-up procedures that the 31053
business entity or public entity will use; 31054

(9) A list of all partners, owners, and officers of the 31055
business entity along with their social security numbers; 31056

(10) The federal tax identification number of the business 31057
entity or the public entity. 31058

(D) The fees to be charged to each public entity and business 31059
entity and their employees and agents for licensure, 31060
certification, approval, and renewal of licenses, certifications, 31061
and approvals granted under this chapter, subject to division 31062
(A)(4) of section 3710.02 of the Revised Code, are: 31063

(1) Seven hundred fifty dollars for asbestos hazard abatement 31064
contractors; 31065

(2) Two hundred dollars for asbestos hazard abatement project 31066
designers; 31067

(3) Fifty dollars for asbestos hazard abatement workers; 31068

(4) Two hundred dollars for asbestos hazard abatement 31069
specialists; 31070

(5) Two hundred dollars for asbestos hazard evaluation 31071
specialists; and 31072

(6) Nine hundred dollars for approval or renewal of asbestos 31073
hazard training providers. 31074

(E) Notwithstanding division (A) of this section, no business 31075
entity which engages in asbestos hazard abatement activities 31076
solely at its own place of business is required to be licensed as 31077
an asbestos hazard abatement contractor provided that the business 31078
entity is required to and does comply with all applicable 31079

standards of the United States environmental protection agency and 31080
the United States occupational safety and health administration 31081
and provided further that all persons employed by the business 31082
entity on the activity meet the requirements of this chapter. 31083

Sec. 3710.051. No person shall enter into an agreement to 31084
perform any aspect of an asbestos hazard abatement project unless 31085
the agreement is written and contains at least all of the 31086
following: 31087

(A) A requirement that all persons working on the project are 31088
licensed or certified by the department of health as required by 31089
this chapter; 31090

(B) A requirement that all project clearance levels and 31091
sampling be in accordance with ~~the public health council~~ rules 31092
adopted by the director of health; 31093

(C) A requirement that all clearance air-monitoring be 31094
conducted by asbestos hazard abatement air-monitoring technicians 31095
or asbestos hazard evaluation specialists certified by the 31096
department. 31097

Sec. 3710.06. (A) Within fifteen business days after 31098
receiving an application, the department of health shall 31099
acknowledge receipt of the application and notify the applicant of 31100
any deficiency in the application. Within sixty calendar days 31101
after receiving a completed application, including all additional 31102
information requested by the department, the department shall 31103
issue a license or certificate or deny the application. The 31104
department shall issue only one license or certificate that is in 31105
effect at one time to a business entity and its principal officers 31106
and a public entity and its principal officers. 31107

(B)(1) The department shall deny an application if it 31108
determines that the applicant has not demonstrated the ability to 31109

comply fully with all applicable federal and state requirements 31110
and all requirements, procedures, and standards established by the 31111
~~public director of health council~~ in this chapter. 31112

(2) The department shall deny any application for an asbestos 31113
hazard abatement contractor's license if the applicant or an 31114
officer or employee of the applicant has been convicted of a 31115
felony under any state or federal law designed to protect the 31116
environment. 31117

(3) The department shall send all denials of an application 31118
by certified mail to the applicant. If the department receives a 31119
timely request for a hearing from the applicant, as provided in 31120
division (D) of section 3710.13 of the Revised Code, the 31121
department shall hold a hearing in accordance with Chapter 119. of 31122
the Revised Code. 31123

(C) In an emergency that results from a sudden, unexpected 31124
event that is not a planned asbestos hazard abatement project, the 31125
department may waive the requirements for a license or 31126
certificate. For the purposes of this division, "emergency" 31127
includes operations necessitated by nonroutine failures of 31128
equipment or by actions of fire and emergency medical personnel 31129
pursuant to duties within their official capacities. Any person 31130
who performs an asbestos hazard abatement activity under emergency 31131
conditions shall notify the director within three days after 31132
performance thereof. 31133

(D) Each license or certificate issued under this chapter 31134
expires one year after the date of issue, but each licensee or 31135
certificate holder may apply to the department for the extension 31136
of ~~his~~ the holder's license or certificate under the standard 31137
renewal procedures of Chapter 4745. of the Revised Code. 31138

To qualify for renewal of a license or certificate issued 31139
under this chapter, each licensee or certificate holder shall send 31140

the appropriate renewal fee set forth in division (D) of section 31141
3710.05 of the Revised Code or as adopted by rule by the ~~public~~ 31142
~~health council~~ director pursuant to division (A)(4) of section 31143
3710.02 of the Revised Code. 31144

Certificate holders also shall successfully complete an 31145
annual renewal course approved by the department pursuant to 31146
section 3710.10 of the Revised Code. 31147

(E) The department may charge a fee in addition to those 31148
specified in division (D) of section 3710.05 of the Revised Code 31149
or in ~~rule of~~ rules adopted by the public health council director 31150
pursuant to division (A)(4) of section 3710.02 of the Revised Code 31151
if the licensee or certificate holder applies for renewal after 31152
the expiration thereof or requests a reissuance of any license or 31153
certificate, provided that no such fee shall exceed the original 31154
fees by more than fifty per cent. 31155

Sec. 3710.07. (A) Prior to engaging in any asbestos hazard 31156
abatement project, an asbestos hazard abatement contractor shall 31157
do all of the following: 31158

(1) Prepare a written respiratory protection program as 31159
defined by the ~~public~~ director of health council pursuant to rule, 31160
and make the program available to the department of health, and 31161
workers at the job site if the contractor is a public entity or 31162
prepare a written respiratory protection program, consistent with 31163
29 C.F.R. 1910.134 and make the program available to the 31164
department, and workers at the job site if the contractor is a 31165
business entity; 31166

(2) Ensure that each worker who will be involved in any 31167
asbestos hazard abatement project has been examined within the 31168
preceding year and has been declared by a physician to be 31169
physically capable of working while wearing a respirator; 31170

(3) Ensure that each of the contractor's employees or agents who will come in contact with asbestos-containing materials or will be responsible for an asbestos hazard abatement project receives the appropriate certification or licensure required by this chapter and the following training:

(a) An initial course approved by the department pursuant to section 3710.10 of the Revised Code, completed before engaging in any asbestos hazard abatement project; and

(b) An annual review course approved by the department pursuant to section 3710.10 of the Revised Code.

(B) After obtaining or renewing a license, an asbestos hazard abatement contractor shall notify the department, on a form approved by the director of health, at least ten days before beginning each asbestos hazard abatement project conducted during the term of the contractor's license.

(C) In addition to any other fee imposed under this chapter, an asbestos hazard abatement contractor shall pay, at the time of providing notice under division (B) of this section, the department a fee of sixty-five dollars for each asbestos hazard abatement project conducted.

Sec. 3710.08. (A) An asbestos hazard abatement contractor engaging in any asbestos hazard abatement project shall, during the course of the project:

(1) Conduct each project in a manner that is in compliance with the requirements the director of environmental protection adopts pursuant to section 3704.03 of the Revised Code and the asbestos requirements of the United States occupational safety and health administration set forth in 29 C.F.R. 1926.58;

(2) Comply with all applicable rules adopted by the ~~public~~ director of health council pursuant to section 3710.02 of the

Revised Code.	31201
(B) An asbestos hazard abatement contractor that is a public entity shall:	31202 31203
(1) Provide workers with protective clothing and equipment and ensure that the workers involved in any asbestos hazard abatement project use the items properly. Protective clothing and equipment shall include:	31204 31205 31206 31207
(a) Respirators approved by the national institute of occupational safety and health. These respirators shall be fit tested in accordance with requirements of the United States occupational safety and health administration set forth in 29 C.F.R. 1926.58(h). At the request of an employee, the asbestos hazard abatement contractor shall provide the employee with a powered air purifying respirator, in which case, the testing requirements of division (B)(1)(a) of this section do not apply.	31208 31209 31210 31211 31212 31213 31214 31215
(b) Items required by the public director of health council by rule as provided in division (A)(7) of section 3710.02 of the Revised Code.	31216 31217 31218
(2) Comply with all applicable standards of conduct and requirements adopted by the public health council and the director of health pursuant to section 3710.02 of the Revised Code.	31219 31220 31221
(C) An asbestos hazard abatement specialist engaging in any asbestos hazard abatement project shall, during the course of the project:	31222 31223 31224
(1) Conduct each project in a manner that will meet decontamination procedures, project containment procedures, and asbestos fiber dispersal methods as provided in division (A)(6) of section 3710.02 of the Revised Code;	31225 31226 31227 31228
(2) Ensure that workers utilize, handle, remove, and dispose of the disposable clothing provided by abatement contractors in a	31229 31230

manner that will prevent contamination or recontamination of the environment and protect the public health from the hazards of exposure to asbestos;

(3) Ensure that workers utilize protective clothing and equipment and comply with the applicable health and safety standards set forth in division (A) of section 3710.08 of the Revised Code;

(4) Ensure that there is no smoking, eating, or drinking in the work area;

(5) Comply with all applicable standards of conduct and requirements adopted by the ~~public health council~~ and director of health pursuant to section 3710.02 of the Revised Code.

(D) An asbestos hazard evaluation specialist engaged in the identification, detection, and assessment of asbestos-containing materials, the determination of appropriate response actions, or other activities associated with an abatement project or the preparation of management plans, shall comply with the applicable standards of conduct and requirements adopted by the ~~public health council~~ and the director of health pursuant to section 3710.02 of the Revised Code.

(E) Every asbestos hazard abatement worker shall comply with all applicable standards adopted by the ~~public~~ director of health ~~council~~ pursuant to section 3710.02 of the Revised Code.

(F) The department may, on a case-by-case basis, approve an alternative to the worker protection requirements of divisions (A), (B), and (C) of this section for an asbestos hazard abatement project conducted by a public entity, provided that the asbestos hazard abatement contractor submits the alternative procedure to the department in writing and demonstrates to the satisfaction of the department that the proposed alternative procedure provides equivalent worker protection.

Sec. 3710.09. (A) As a means of protecting the public, each 31262
asbestos hazard abatement contractor licensed under this chapter 31263
shall maintain records of all asbestos hazard abatement projects 31264
which ~~he~~ the contractor performs and make these records available 31265
to the department of health upon request. The licensee shall 31266
maintain the records for at least thirty years. 31267

(B) The records required by this section shall include all of 31268
the following: 31269

(1) The name, social security number, and address of the 31270
person who supervised the asbestos hazard abatement project; 31271

(2) The names and social security numbers of all workers at 31272
the job site; 31273

(3) The location and description of the asbestos hazard 31274
abatement project and the amount of asbestos-containing material 31275
that was removed; 31276

(4) The starting and completion dates of each asbestos hazard 31277
abatement project; 31278

(5) A summary of the procedures that were used to comply with 31279
all applicable federal, state, and local standards; 31280

(6) The name and address of each asbestos disposal site where 31281
the waste containing asbestos was deposited; 31282

(7) Any other information that the ~~public~~ director of health 31283
~~council~~, by rule, requires. 31284

Sec. 3710.10. (A) No person other than the department of 31285
health shall conduct or offer to conduct any initial or review 31286
training course or examination required by this chapter unless 31287
that person is approved to sponsor the courses and examinations 31288
under this section. In conducting any such course or examination, 31289
the department and the approved person shall administer the 31290

courses and examinations according to the United States 31291
environmental protection agency "Model Accreditation Plan," 40 31292
C.F.R. 763, Subpart E, Appendix C, and the rules of the ~~public~~ 31293
director of health council adopted pursuant to division (A)(3) of 31294
section 3710.02 of the Revised Code. A person may apply for 31295
approval or renewal of a course on the health and safety aspects 31296
of asbestos hazard abatement activities which meets the 31297
requirements of division (A)(3) of section 3710.07 of the Revised 31298
Code by submitting a written application on forms provided by the 31299
department. 31300

(B) In order to obtain or renew department approval, a person 31301
sponsoring a course shall substantially satisfy all of the 31302
following criteria: 31303

(1) Provide courses of instruction and examinations that meet 31304
the requirements of division (A) of this section; 31305

(2) Ensure that instruction is given or supervised by 31306
personnel with sufficient education and experience as determined, 31307
~~by rule, in rules adopted by the public health council director;~~ 31308

(3) Maintain lists of students trained and the dates on which 31309
training occurred for at least twenty years, and make this 31310
information available to the department upon request. 31311

(C) In order to obtain or renew department approval, a person 31312
sponsoring an initial course or a review course annually shall 31313
apply to the department for approval. In applying, the person 31314
shall submit the fee set forth in division (D) of section 3710.05 31315
of the Revised Code along with any increase in fee adopted 31316
pursuant to division (A)(4) of section 3710.02 of the Revised 31317
Code. 31318

(D)(1) The department shall act or acknowledge receipt of an 31319
application within ten working days after receiving the 31320
application. 31321

(2) The department shall act on the application within ninety days after it is complete. 31322
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(3) The department shall grant contingent approval of an application if the department determines the course substantially satisfies or will substantially satisfy the criteria in this chapter and the rules adopted by the ~~public health council~~ director. 31324
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(4) The department may deny or revoke approval of a course if the department determines the course does not or will not substantially satisfy the criteria in this chapter or the rules adopted by the ~~public health council~~ director. 31329
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(5) The department shall grant final approval of a course only after an on-site audit by the department which reveals that the course substantially satisfies the criteria in this chapter and the rules adopted by the ~~public health council~~ director. Course approvals expire one year from the date of final approval under division (D)(5) of this section. 31333
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(E) Each course approval issued under this section expires one year after the date of issue, but a person who received approval may apply to the department for renewal under the standard renewal procedures of Chapter 4745. of the Revised Code. The fee prescribed in section 3710.05 of the Revised Code must accompany the application. 31339
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Sec. 3710.12. Subject to the hearing provisions of this chapter, the department of health may deny, suspend, or revoke any license or certificate, or renewal thereof, if the licensee or certificate holder: 31345
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(A) Fraudulently or deceptively obtains or attempts to obtain a license or certificate; 31349
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(B) Fails at any time to meet the qualifications for a 31351

license or certificate; 31352

(C) Is violating or threatening to violate any provisions of 31353
any of the following: 31354

(1) This chapter or the rules of the ~~public health council or~~ 31355
director of health adopted pursuant thereto; 31356

(2) The "National Emission Standard for Hazardous Air 31357
Pollutants" regulations of the United States environmental 31358
protection agency as the regulations pertain to asbestos; ~~or~~ 31359

(3) The regulations of the United States occupational safety 31360
and health administration as the regulations pertain to asbestos. 31361

Sec. 3710.13. (A) Except as otherwise provided in Chapter 31362
119. of the Revised Code or this section, before the department of 31363
health takes any action under section 3710.12 of the Revised Code, 31364
it shall give the licensee or certificate holder against whom 31365
action is contemplated an opportunity for a hearing. 31366

Except as otherwise provided in this section, the department 31367
shall give notice and hold the hearing in accordance with Chapter 31368
119. of the Revised Code. 31369

(B) The department, without notice or hearing and in 31370
accordance with ~~the rules of~~ adopted by the public director of 31371
health ~~council~~, may issue an order requiring any action necessary 31372
to meet a public health emergency involving asbestos. Any person 31373
to whom an order is directed shall immediately comply with the 31374
order. Upon application to the director of health, the person 31375
shall be afforded a hearing as soon as possible, but no more than 31376
twenty days after receipt of the application by the director. 31377

(C) If the director determines, pursuant to division (B) of 31378
this section, that a public health emergency exists, ~~he~~ the 31379
director may order, without a hearing, the denial, suspension, or 31380
revocation of any license or certificate issued under this chapter 31381

of the parties involved, provided that an opportunity for a 31382
hearing is provided to the affected party as soon as reasonably 31383
possible. 31384

(D) All proceedings under this chapter are subject to Chapter 31385
119. of the Revised Code, except that: 31386

(1) Upon the request of a licensee or certificate holder, the 31387
location of an adjudicatory hearing is the county seat of the 31388
county in which the licensee or certificate holder conducts 31389
business. 31390

(2) The director shall notify, by certified mail or personal 31391
delivery, a licensee or certificate holder that ~~he~~ the licensee or 31392
certificate holder is entitled to a hearing if ~~he~~ the licensee or 31393
certificate holder requests it, in writing, within ten days of the 31394
time that ~~he~~ the licensee or certificate holder receives the 31395
notice. If the licensee or certificate holder requests such a 31396
hearing, the director shall set the hearing date no later than ten 31397
days after the director receives the request. 31398

(3) The director shall not apply for or receive a 31399
postponement or continuation of an adjudication hearing. If a 31400
licensee or certificate holder requests a postponement or 31401
continuation of an adjudication hearing, the director only shall 31402
grant the request if the licensee or certificate holder 31403
demonstrates extreme hardship in complying with the hearing date. 31404
If the director grants a postponement or continuation on the 31405
grounds of extreme hardship, the director shall include in the 31406
record of the case, the nature and cause of the extreme hardship. 31407

(4) In lieu of an adjudicatory hearing required by this 31408
chapter, a licensee or certificate holder, by no later than the 31409
date set for a hearing pursuant to division (A)(3) of this 31410
section, may by written request to the director, request that the 31411
matter be resolved by the licensee or certificate holder 31412

submitting documents, papers, and other written evidence to the 31413
director to support ~~his~~ the licensee's or certificate holder's 31414
claim. 31415

(5) If the director appoints a referee or an examiner to 31416
conduct a hearing, all of the following apply: 31417

(a) The examiner or referee shall serve, by certified mail 31418
and within three business days of the conclusion of the hearing, a 31419
copy of the written adjudication report and ~~his~~ the referee's or 31420
examiner's recommendations, on the director and the affected 31421
licensee or certificate holder or the licensee's or certificate 31422
holder's attorney or other representative of record. 31423

(b) The licensee or certificate holder, within three business 31424
days of receipt of the report under division (D)(5)(a) of this 31425
section, may file with the director written objections to the 31426
report and recommendations. 31427

(c) The director shall consider any objections received under 31428
division (D)(5)(b) of this section prior to approving, modifying, 31429
or disapproving the report and recommendations. Within six 31430
business days of receiving the report under division (D)(5)(a) of 31431
this section, the director shall serve ~~his~~ the director's order, 31432
by certified mail, on the affected licensee or certificate holder 31433
or the licensee's or certificate holder's attorney or other 31434
representative of record. 31435

(6) If the director conducts an adjudicatory hearing under 31436
this chapter, ~~he~~ the director shall serve ~~his~~ the director's 31437
decision, by certified mail and within three business days of the 31438
conclusion of the hearing, on the affected licensee or certificate 31439
holder or the licensee's or certificate holder's attorney or other 31440
representative of record. 31441

(7) If no hearing is held, the director shall issue an order, 31442
by certified mail and within three business days of the last date 31443

possible for a hearing, based upon the record available to ~~him~~ the 31444
director, to the affected licensee or certificate holder or the 31445
licensee's or certificate holder's attorney or other 31446
representative of record. 31447

(8) A licensee or certificate holder shall file a notice of 31448
appeal to an adverse adjudication decision within fifteen days 31449
after receipt of the director's order. 31450

Sec. 3710.17. (A) Where any person is certified or licensed 31451
by the department of health to engage in asbestos hazard abatement 31452
or evaluation activity pursuant to this chapter, the liability of 31453
that person when performing such activity in accordance with 31454
procedures established pursuant to state or federal law for an 31455
injury to any individual or property caused or related to this 31456
activity shall be limited to acts or omissions of the person 31457
during the course of performing the activity which can be shown, 31458
based on a preponderance of the evidence, to have been negligent. 31459
For the purposes of this section, the demonstration that acts or 31460
omissions of a person performing asbestos hazard abatement or 31461
evaluation activities were in accordance with generally accepted 31462
practice and with procedures established by state or federal law 31463
at the time the abatement or evaluation activity was performed 31464
creates a rebuttable presumption that the acts or omissions were 31465
not negligent. 31466

(B) Where any person contracts with a certified asbestos 31467
hazard abatement specialist, asbestos hazard evaluation 31468
specialist, or other category of asbestos hazard specialist 31469
established by the ~~public~~ director of health ~~council~~, or a 31470
licensed asbestos hazard abatement contractor, the liability of 31471
that person for asbestos-related injuries caused by ~~his~~ the 31472
person's contractee in the performance of asbestos hazard 31473
abatement or evaluation activities shall be limited to those 31474

asbestos-related injuries arising from acts which the person knew 31475
or could reasonably have been expected to know were not in 31476
accordance with generally accepted practice or with procedures 31477
established by state or federal law at the time the abatement 31478
activity took place. 31479

(C) Notwithstanding any other provisions of the Revised Code 31480
or rules of a court to the contrary, this section governs all 31481
claims for asbestos-related injuries arising from asbestos hazard 31482
abatement or evaluation activities. 31483

Sec. 3711.04. Each person seeking to operate a maternity 31484
unit, newborn care nursery, or maternity home shall apply to the 31485
director of health for a license under this chapter. The 31486
application shall be submitted in the form and manner prescribed 31487
by the ~~public health council~~ director in rules adopted under 31488
section 3711.12 of the Revised Code. 31489

A single application and license is required if an applicant 31490
will operate both a maternity unit and newborn care nursery. 31491

Sec. 3711.06. The director of health shall inspect each 31492
maternity unit, newborn care nursery, or maternity home for which 31493
a person has applied for an initial license under section 3711.04 31494
of the Revised Code prior to issuing the license. Inspections 31495
shall be conducted in accordance with inspection criteria, 31496
procedures, and guidelines adopted by the ~~public health council~~ 31497
director under section 3711.12 of the Revised Code. 31498

Sec. 3711.08. A license issued under this chapter is valid 31499
for three years, unless earlier revoked or suspended under section 31500
3711.14 of the Revised Code. The license may be renewed in the 31501
manner prescribed by the ~~public~~ director of health ~~council~~ in 31502
rules adopted under section 3711.12 of the Revised Code. The 31503
license renewal fee specified in the rules shall be paid not later 31504

than sixty days after the director of health mails an invoice for 31505
the fee to the license holder. A penalty of ten per cent of the 31506
amount of the renewal fee shall be assessed for each month the fee 31507
is overdue. 31508

Sec. 3711.12. (A) The ~~public director of health council~~ shall 31509
adopt rules in accordance with Chapter 119. of the Revised Code as 31510
the ~~council~~ director considers necessary to implement the 31511
requirements of this chapter for licensure and operation of 31512
maternity units, newborn care nurseries, and maternity homes. The 31513
rules shall include provisions for the following: 31514

(1) Licensure application forms and procedures; 31515

(2) Renewal procedures, including procedures that address the 31516
right of the director of health, at the director's sole 31517
discretion, to conduct an inspection prior to renewal of a 31518
license; 31519

(3) Initial license fees and license renewal fees; 31520

(4) Fees for inspections conducted by the director under 31521
section 3711.10 of the Revised Code; 31522

(5) Safety standards, quality-of-care standards, and 31523
quality-of-care data reporting requirements; 31524

(6) Reporting and auditing requirements; 31525

(7) Inspection criteria, procedures, and guidelines; 31526

(8) Any other rules necessary to implement this chapter. 31527

(B) When adopting rules under this section, the ~~public health~~ 31528
~~council~~ director shall give consideration to recommendations 31529
regarding obstetric and newborn care issued by the American 31530
college of obstetricians and gynecologists; American academy of 31531
pediatrics; American academy of family physicians; American 31532
society of anesthesiologists; American college of nurse_midwives; 31533

United States centers for disease control and prevention; 31534
association of women's health, obstetric and neonatal nurses; and 31535
association of perioperative registered nurses, or their successor 31536
organizations. The ~~council~~ director shall also consider the 31537
recommendations of the maternity and newborn advisory council 31538
established in section 3711.20 of the Revised Code. 31539

Sec. 3711.21. The maternity and newborn advisory council 31540
shall do all of the following: 31541

(A) Advise and consult with the director of health in the 31542
development of rules to be ~~presented to the public health council~~ 31543
~~for proposed adoption~~ adopted under this chapter; 31544

(B) Advise and consult with the director concerning the 31545
implementation and enforcement of this chapter; 31546

(C) Advise and consult with the director in the development 31547
of inspection criteria, procedures, and guidelines to be used in 31548
enforcement of this chapter; 31549

(D) Advise and consult with the director regarding 31550
recommendations ~~to be presented to the public health council~~ 31551
regarding improving maternity and newborn care in this state; 31552

(E) Prepare and submit to the director an annual report 31553
evaluating the department's enforcement of this chapter. 31554

Sec. 3712.03. (A) In accordance with Chapter 119. of the 31555
Revised Code, the ~~public director of health council~~ shall adopt, 31556
and may amend and rescind, rules: 31557

(1) Providing for the licensing of persons or public agencies 31558
providing hospice care programs within this state by the 31559
department of health and for the suspension and revocation of 31560
licenses; 31561

(2) Establishing a license fee and license renewal fee, 31562

neither of which shall, except as provided in division (B) of this 31563
section, exceed six hundred dollars. The fees shall cover the 31564
three-year period during which an existing license is valid as 31565
provided in division (B) of section 3712.04 of the Revised Code. 31566

(3) Establishing an inspection fee not to exceed, except as 31567
provided in division (B) of this section, one thousand seven 31568
hundred fifty dollars; 31569

(4) Establishing requirements for hospice care program 31570
facilities and services; 31571

(5) Providing for a waiver of the requirement for the 31572
provision of physical, occupational, or speech or language therapy 31573
contained in division (A)(2) of section 3712.01 of the Revised 31574
Code when the requirement would create a hardship because such 31575
therapy is not readily available in the geographic area served by 31576
the provider of a hospice care program; 31577

(6) Providing for the granting of licenses to provide hospice 31578
care programs to persons and public agencies that are accredited 31579
or certified to provide such programs by an entity whose standards 31580
for accreditation or certification equal or exceed those provided 31581
for licensure under this chapter and rules adopted under it; 31582

(7) Establishing interpretive guidelines for each rule. 31583

(B) Subject to the approval of the controlling board, the 31584
~~public health council~~ director may establish fees in excess of the 31585
maximum amounts specified in this section, provided that the fees 31586
do not exceed those amounts by greater than fifty per cent. 31587

(C) The department of health shall: 31588

(1) Grant, suspend, and revoke licenses for hospice care 31589
programs in accordance with this chapter and rules adopted under 31590
it; 31591

(2) Make such inspections as are necessary to determine 31592

whether hospice care program facilities and services meet the 31593
requirements of this chapter and rules adopted under it; and 31594

(3) Implement and enforce this chapter and rules adopted 31595
under it. 31596

Sec. 3712.04. (A) Every person or public agency that proposes 31597
to provide a hospice care program shall apply to the department of 31598
health for a license. Application shall be made on forms 31599
prescribed and provided by the department, shall include such 31600
information as the department requires, and shall be accompanied 31601
by the license fee established by rules of the ~~public~~ director of 31602
health ~~council~~ adopted under division (A) of section 3712.03 of 31603
the Revised Code. 31604

The department shall grant a license to the applicant if the 31605
applicant is in compliance with this chapter and rules adopted 31606
under it. 31607

(B) A license granted under this section shall be valid for 31608
three years. Application for renewal of a license shall be made at 31609
least ninety days before the expiration of the license in the same 31610
manner as for an initial license. The department shall renew the 31611
license if the applicant meets the requirements of this chapter 31612
and rules adopted under it. 31613

(C) Subject to Chapter 119. of the Revised Code, the 31614
department may suspend or revoke a license if the licensee made 31615
any material misrepresentation in the application for the license 31616
or no longer meets the requirements of this chapter or rules 31617
adopted under it. 31618

(D) A hospital, nursing home, home for the aged, county 31619
medical care facility, or other health facility or agency that 31620
provides a hospice care program shall be licensed to provide a 31621
hospice care program under this section. 31622

(E) A nursing home licensed under Chapter 3721. of the Revised Code that does not hold itself out to be a hospice, does not hold itself out as providing a hospice care program, does not use the term hospice to describe or refer to its activities or facilities, and that does not provide all of the services enumerated in division (A) of section 3712.01 of the Revised Code is not subject to the licensing provisions of this chapter.

Sec. 3712.09. (A) As used in this section:

(1) "Applicant" means a person who is under final consideration for employment with a hospice care program in a full-time, part-time, or temporary position that involves providing direct care to an older adult. "Applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(2) "Criminal records check" ~~and "older adult"~~ have the same ~~meanings~~ meaning as in section 109.572 of the Revised Code.

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

(B)(1) Except as provided in division (I) of this section, the chief administrator of a hospice care program shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check ~~with respect to~~ of each applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of

investigation as part of the criminal records check of the 31654
applicant. Even if an applicant for whom a criminal records check 31655
request is required under this division presents proof of having 31656
been a resident of this state for the five-year period, the chief 31657
administrator may request that the superintendent include 31658
information from the federal bureau of investigation in the 31659
criminal records check. 31660

(2) A person required by division (B)(1) of this section to 31661
request a criminal records check shall do both of the following: 31662

(a) Provide to each applicant for whom a criminal records 31663
check request is required under that division a copy of the form 31664
prescribed pursuant to division (C)(1) of section 109.572 of the 31665
Revised Code and a standard fingerprint impression sheet 31666
prescribed pursuant to division (C)(2) of that section, and obtain 31667
the completed form and impression sheet from the applicant; 31668

(b) Forward the completed form and impression sheet to the 31669
superintendent of the bureau of criminal identification and 31670
investigation. 31671

(3) An applicant provided the form and fingerprint impression 31672
sheet under division (B)(2)(a) of this section who fails to 31673
complete the form or provide fingerprint impressions shall not be 31674
employed in any position for which a criminal records check is 31675
required by this section. 31676

(C)(1) Except as provided in rules adopted by the ~~public~~ 31677
director of health council in accordance with division (F) of this 31678
section and subject to division (C)(2) of this section, no hospice 31679
care program shall employ a person in a position that involves 31680
providing direct care to an older adult if the person has been 31681
convicted of or pleaded guilty to any of the following: 31682

(a) A violation of section 2903.01, 2903.02, 2903.03, 31683
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 31684

2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 31685
2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 31686
2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 31687
2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 31688
2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 31689
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 31690
2925.22, 2925.23, or 3716.11 of the Revised Code. 31691

(b) A violation of an existing or former law of this state, 31692
any other state, or the United States that is substantially 31693
equivalent to any of the offenses listed in division (C)(1)(a) of 31694
this section. 31695

(2)(a) A hospice care program may employ conditionally an 31696
applicant for whom a criminal records check request is required 31697
under division (B) of this section prior to obtaining the results 31698
of a criminal records check regarding the individual, provided 31699
that the program shall request a criminal records check regarding 31700
the individual in accordance with division (B)(1) of this section 31701
not later than five business days after the individual begins 31702
conditional employment. In the circumstances described in division 31703
(I)(2) of this section, a hospice care program may employ 31704
conditionally an applicant who has been referred to the hospice 31705
care program by an employment service that supplies full-time, 31706
part-time, or temporary staff for positions involving the direct 31707
care of older adults and for whom, pursuant to that division, a 31708
criminal records check is not required under division (B) of this 31709
section. 31710

(b) A hospice care program that employs an individual 31711
conditionally under authority of division (C)(2)(a) of this 31712
section shall terminate the individual's employment if the results 31713
of the criminal records check requested under division (B) of this 31714
section or described in division (I)(2) of this section, other 31715
than the results of any request for information from the federal 31716

bureau of investigation, are not obtained within the period ending 31717
thirty days after the date the request is made. Regardless of when 31718
the results of the criminal records check are obtained, if the 31719
results indicate that the individual has been convicted of or 31720
pleaded guilty to any of the offenses listed or described in 31721
division (C)(1) of this section, the program shall terminate the 31722
individual's employment unless the program chooses to employ the 31723
individual pursuant to division (F) of this section. Termination 31724
of employment under this division shall be considered just cause 31725
for discharge for purposes of division (D)(2) of section 4141.29 31726
of the Revised Code if the individual makes any attempt to deceive 31727
the program about the individual's criminal record. 31728

(D)(1) Each hospice care program shall pay to the bureau of 31729
criminal identification and investigation the fee prescribed 31730
pursuant to division (C)(3) of section 109.572 of the Revised Code 31731
for each criminal records check conducted pursuant to a request 31732
made under division (B) of this section. 31733

(2) A hospice care program may charge an applicant a fee not 31734
exceeding the amount the program pays under division (D)(1) of 31735
this section. A program may collect a fee only if both of the 31736
following apply: 31737

(a) The program notifies the person at the time of initial 31738
application for employment of the amount of the fee and that, 31739
unless the fee is paid, the person will not be considered for 31740
employment; 31741

(b) The medical assistance program established under Chapter 31742
5111. of the Revised Code does not reimburse the program the fee 31743
it pays under division (D)(1) of this section. 31744

(E) The report of a criminal records check conducted pursuant 31745
to a request made under this section is not a public record for 31746
the purposes of section 149.43 of the Revised Code and shall not 31747

be made available to any person other than the following: 31748

(1) The individual who is the subject of the criminal records 31749
check or the individual's representative; 31750

(2) The chief administrator of the program requesting the 31751
criminal records check or the administrator's representative; 31752

(3) The administrator of any other facility, agency, or 31753
program that provides direct care to older adults that is owned or 31754
operated by the same entity that owns or operates the hospice care 31755
program; 31756

(4) A court, hearing officer, or other necessary individual 31757
involved in a case dealing with a denial of employment of the 31758
applicant or dealing with employment or unemployment benefits of 31759
the applicant; 31760

(5) Any person to whom the report is provided pursuant to, 31761
and in accordance with, division (I)(1) or (2) of this section. 31762

(F) The ~~public~~ director of health ~~council~~ shall adopt rules 31763
in accordance with Chapter 119. of the Revised Code to implement 31764
this section. The rules shall specify circumstances under which a 31765
hospice care program may employ a person who has been convicted of 31766
or pleaded guilty to an offense listed or described in division 31767
(C)(1) of this section but meets personal character standards set 31768
by the ~~council~~ director. 31769

(G) The chief administrator of a hospice care program shall 31770
inform each individual, at the time of initial application for a 31771
position that involves providing direct care to an older adult, 31772
that the individual is required to provide a set of fingerprint 31773
impressions and that a criminal records check is required to be 31774
conducted if the individual comes under final consideration for 31775
employment. 31776

(H) In a tort or other civil action for damages that is 31777

brought as the result of an injury, death, or loss to person or 31778
property caused by an individual who a hospice care program 31779
employs in a position that involves providing direct care to older 31780
adults, all of the following shall apply: 31781

(1) If the program employed the individual in good faith and 31782
reasonable reliance on the report of a criminal records check 31783
requested under this section, the program shall not be found 31784
negligent solely because of its reliance on the report, even if 31785
the information in the report is determined later to have been 31786
incomplete or inaccurate; 31787

(2) If the program employed the individual in good faith on a 31788
conditional basis pursuant to division (C)(2) of this section, the 31789
program shall not be found negligent solely because it employed 31790
the individual prior to receiving the report of a criminal records 31791
check requested under this section; 31792

(3) If the program in good faith employed the individual 31793
according to the personal character standards established in rules 31794
adopted under division (F) of this section, the program shall not 31795
be found negligent solely because the individual prior to being 31796
employed had been convicted of or pleaded guilty to an offense 31797
listed or described in division (C)(1) of this section. 31798

(I)(1) The chief administrator of a hospice care program is 31799
not required to request that the superintendent of the bureau of 31800
criminal identification and investigation conduct a criminal 31801
records check of an applicant if the applicant has been referred 31802
to the program by an employment service that supplies full-time, 31803
part-time, or temporary staff for positions involving the direct 31804
care of older adults and both of the following apply: 31805

(a) The chief administrator receives from the employment 31806
service or the applicant a report of the results of a criminal 31807
records check regarding the applicant that has been conducted by 31808

the superintendent within the one-year period immediately 31809
preceding the applicant's referral; 31810

(b) The report of the criminal records check demonstrates 31811
that the person has not been convicted of or pleaded guilty to an 31812
offense listed or described in division (C)(1) of this section, or 31813
the report demonstrates that the person has been convicted of or 31814
pleaded guilty to one or more of those offenses, but the hospice 31815
care program chooses to employ the individual pursuant to division 31816
(F) of this section. 31817

(2) The chief administrator of a hospice care program is not 31818
required to request that the superintendent of the bureau of 31819
criminal identification and investigation conduct a criminal 31820
records check of an applicant and may employ the applicant 31821
conditionally as described in this division, if the applicant has 31822
been referred to the program by an employment service that 31823
supplies full-time, part-time, or temporary staff for positions 31824
involving the direct care of older adults and if the chief 31825
administrator receives from the employment service or the 31826
applicant a letter from the employment service that is on the 31827
letterhead of the employment service, dated, and signed by a 31828
supervisor or another designated official of the employment 31829
service and that states that the employment service has requested 31830
the superintendent to conduct a criminal records check regarding 31831
the applicant, that the requested criminal records check will 31832
include a determination of whether the applicant has been 31833
convicted of or pleaded guilty to any offense listed or described 31834
in division (C)(1) of this section, that, as of the date set forth 31835
on the letter, the employment service had not received the results 31836
of the criminal records check, and that, when the employment 31837
service receives the results of the criminal records check, it 31838
promptly will send a copy of the results to the hospice care 31839
program. If a hospice care program employs an applicant 31840

conditionally in accordance with this division, the employment 31841
service, upon its receipt of the results of the criminal records 31842
check, promptly shall send a copy of the results to the hospice 31843
care program, and division (C)(2)(b) of this section applies 31844
regarding the conditional employment. 31845

Sec. 3713.01. As used in sections 3713.01 to 3713.10 of the 31846
Revised Code: 31847

(A) "Person" has the same meaning as used in division (C) of 31848
section 1.59 of the Revised Code and also means any limited 31849
company, limited liability partnership, joint stock company, or 31850
other association. 31851

(B) "Bedding" means any upholstered furniture, any mattress, 31852
upholstered spring, comforter, bolster, pad, cushion, pillow, 31853
mattress protector, quilt, and any other upholstered article, to 31854
be used for sleeping, resting, or reclining purposes, and any 31855
glider, hammock, or other substantially similar article that is 31856
wholly or partly upholstered. 31857

(C) "Secondhand" means any article, or material, or portion 31858
thereof of which prior use has been made in any manner whatsoever. 31859

(D) "Remade, repaired, or renovated articles not for sale" 31860
means any article that is remade, repaired, or renovated for and 31861
is returned to the owner for the owner's own use. 31862

(E) "Sale," "sell," or "sold" shall, in the corresponding 31863
tense, mean sell, offer to sell, or deliver or consign in sale, or 31864
possess with intent to sell, or deliver in sale. 31865

(F) "Upholstered furniture" means any article of furniture 31866
wholly or partly stuffed or filled with material and that is used 31867
or intended for use for sitting, resting, or reclining purposes. 31868

(G) "Stuffed toy" means any article intended for use as a 31869
plaything or for an educational or recreational purpose that is 31870

wholly or partially stuffed with material. 31871

(H) "Tag" or "label" means any material prescribed by the 31872
superintendent of ~~labor~~ industrial compliance to be attached to an 31873
article that contains information required under this chapter. 31874

Sec. 3713.02. (A) Except as provided in section 3713.05 of 31875
the Revised Code, no person shall import, manufacture, renovate, 31876
wholesale, or reupholster stuffed toys or articles of bedding in 31877
this state without first registering to do so with the 31878
superintendent of ~~labor~~ industrial compliance in accordance with 31879
section 3713.05 of the Revised Code. 31880

(B) No person shall manufacture, offer for sale, sell, 31881
deliver, or possess for the purpose of manufacturing, selling, or 31882
delivering, an article of bedding or a stuffed toy that is not 31883
labeled in accordance with section 3713.08 of the Revised Code. 31884

(C) No person shall manufacture, offer for sale, sell, 31885
deliver, or possess for the purpose of manufacturing, selling, or 31886
delivering, an article of bedding or a stuffed toy that is falsely 31887
labeled. 31888

(D) No person shall sell or offer for sale any secondhand 31889
article of bedding or any secondhand stuffed toy that has not been 31890
sanitized in accordance with section 3713.08 of the Revised Code. 31891

(E) The possession of any article of bedding or stuffed toy 31892
in the course of business by a person required to obtain 31893
registration under this chapter, or by that person's agent or 31894
servant shall be prima-facie evidence of the person's intent to 31895
sell the article of bedding or stuffed toy. 31896

Sec. 3713.03. The superintendent of ~~labor~~ industrial 31897
compliance in the department of commerce shall administer and 31898
enforce this chapter. 31899

Sec. 3713.04. (A) In accordance with Chapter 119. of the 31900
Revised Code, the superintendent of ~~labor~~ industrial compliance 31901
shall: 31902

(1) Adopt rules pertaining to the definition, name, and 31903
description of materials necessary to carry out this chapter; 31904

(2) Determine the testing standards, fees, and charges to be 31905
paid for making any test or analysis required pursuant to section 31906
3713.08 of the Revised Code. 31907

(B) In accordance with Chapter 119. of the Revised Code, the 31908
superintendent may adopt rules regarding the following: 31909

(1) Establishing an initial application fee or an annual 31910
registration renewal fee not more than fifty per cent higher than 31911
the fees set forth in section 4713.05 of the Revised Code; 31912

(2) Establishing standards, on a reciprocal basis, for the 31913
acceptance of labels and laboratory analyses from other states 31914
where the labeling requirements and laboratory analysis standards 31915
are substantially equal to the requirements of this state, 31916
provided the other state extends similar reciprocity to labels and 31917
laboratory analysis conducted under this chapter; 31918

(3) Any other rules necessary to administer and carry out 31919
this chapter. 31920

(C) The superintendent may do any of the following: 31921

(1) Issue administrative orders, conduct hearings, and take 31922
all actions necessary under the authority of Chapter 119. of the 31923
Revised Code for the administration of this chapter. The authority 31924
granted under this division shall include the authority to 31925
suspend, revoke, or deny registration under this chapter. 31926

(2) Establish and maintain facilities within the department 31927
of commerce to make tests and analysis of materials used in the 31928
manufacture of bedding and stuffed toys. The superintendent also 31929

may designate established laboratories in various sections of the 31930
state that are qualified to make these tests. If the 31931
superintendent exercises this authority, the superintendent shall 31932
adopt rules to determine the fees and charges to be paid for 31933
making the tests or analyses authorized under this section. 31934

(3) Exercise such other powers and duties as are necessary to 31935
carry out the purpose and intent of this chapter. 31936

Sec. 3713.05. (A) Applications to register to import, 31937
manufacture, renovate, wholesale, make, or reupholster stuffed 31938
toys or bedding in this state shall be made in writing on forms 31939
provided by the superintendent of ~~labor~~ industrial compliance. The 31940
application shall be accompanied by a registration fee of fifty 31941
dollars per person unless the applicant engages only in 31942
renovation, in which case the registration fee shall be 31943
thirty-five dollars. 31944

(B) Upon receipt of the application and the appropriate fee, 31945
the superintendent shall register the applicant and assign a 31946
registration number to the registrant. 31947

(C) Notwithstanding section 3713.02 of the Revised Code and 31948
division (A) of this section, the following are exempt from 31949
registration: 31950

(1) An organization described in section 501(c)(3) of the 31951
"Internal Revenue Code of 1986," and exempt from income tax under 31952
section 501(a) of that code and that is operated exclusively to 31953
provide recreation or social services; 31954

(2) A person who is not regularly engaged in the business of 31955
manufacturing, making, wholesaling, or importing stuffed toys but 31956
who manufactures or makes stuffed toys as a leisure pursuit and 31957
who sells one hundred or fewer stuffed toys within one calendar 31958
year; 31959

(3) A person who is not regularly engaged in the business of manufacturing, making, wholesaling, or importing quilts, comforters, pillows, or cushions, but who manufactures or makes these items as a leisure pursuit and who sells five or fewer quilts, ten or fewer comforters, or twenty or fewer pillows or cushions within one calendar year.

(D) Notwithstanding division (C)(2) or (3) of this section, a person exempt under that division must attach a label to each stuffed toy that contains all of the following information:

(1) The person's name and address;

(2) A statement that the person is not registered by the state of Ohio;

(3) A statement that the contents of the product have not been inspected.

Sec. 3713.06. (A) Any person required to register under division (A) of section 3713.02 of the Revised Code who imports bedding or stuffed toys into this state for retail sale or use in this state and any person required to register under division (A) of section 3713.02 of the Revised Code who manufactures bedding or stuffed toys in this state for retail sale or use in this state shall submit a report to the superintendent of ~~labor~~ industrial compliance, in a form and manner prescribed by the superintendent. The form shall be submitted once every six months and shall show the total number of items of bedding or stuffed toys imported into this state or manufactured in this state. Each report shall be accompanied by a fee of four cents for each item of bedding or stuffed toy imported into this state or manufactured in this state.

(B) Every importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, and every mobile home and

recreational vehicle dealer, conversion van dealer, secondhand 31990
dealer, and auction house shall retain records, designated by the 31991
superintendent in rule, for the time period established in rule. 31992

(C) Every importer, manufacturer, or wholesaler of stuffed 31993
toys or articles of bedding, and every mobile home and 31994
recreational vehicle dealer, conversion van dealer, secondhand 31995
dealer, and auction house shall make sufficient investigation of 31996
its records to ensure that the information reported to the 31997
superintendent under division (A) of this section is accurate. 31998

Sec. 3713.07. (A) Registration obtained under this chapter 31999
expires annually on the last day of the month in the month that 32000
the registration was obtained. The superintendent of ~~labor~~ 32001
industrial compliance shall renew the registration in accordance 32002
with Chapter 4745. of the Revised Code. 32003

(B) Failure on the part of any registrant to renew 32004
registration prior to its expiration, when notified as required in 32005
this section, shall not deprive the person of the right to renewal 32006
within the ninety days that follow expiration, but the fee to be 32007
paid for renewal after its expiration shall be one hundred dollars 32008
plus the standard registration fee for the registrant. 32009

(C) If a registrant fails to renew registration within ninety 32010
days of the date that it expired, the former registrant shall 32011
comply with the registration requirements under section 3713.05 of 32012
the Revised Code to obtain valid registration. 32013

Sec. 3713.08. (A) All persons required to register under 32014
division (A) of section 3713.02 of the Revised Code manufacturing, 32015
making, or wholesaling bedding or stuffed toys, or both, that are 32016
sold or offered for sale shall have the material content of their 32017
products tested and analyzed at an established laboratory 32018
designated by the superintendent of ~~labor~~ industrial compliance 32019

before the bedding or stuffed toys are sold or offered for sale. 32020

(B) Every stuffed toy or item of bedding sold or offered for 32021
sale shall have a label affixed to it that reports the contents of 32022
the stuffed toy or bedding material in conformity with 32023
requirements established by the superintendent, a registration 32024
number, and any other identifying information as required by the 32025
superintendent. 32026

(C) The seller of any secondhand articles of bedding or 32027
stuffed toys shall sanitize all items in accordance with rules 32028
established by the superintendent prior to the sale of or the 32029
offering for sale of any secondhand articles. 32030

(D) This section does not apply to any of the following: 32031

(1) Persons who meet the qualifications of division (C)(2) or 32032
(3) of section 3713.05 of the Revised Code; 32033

(2) The sale of furniture more than fifty years old; 32034

(3) The sale of furniture from the home of the owner directly 32035
to the purchaser. 32036

Sec. 3713.09. (A) The superintendent of ~~labor~~ industrial 32037
compliance may appoint inspectors and periodically inspect and 32038
investigate any establishment where bedding or stuffed toys are 32039
manufactured, made, remade, renovated, repaired, sanitized, sold, 32040
or offered for sale, or where previously used material is 32041
processed for use in the manufacture of bedding or stuffed toys. 32042

(1) Each inspector shall make a written report to the 32043
superintendent of each examination and inspection complete with 32044
the inspector's findings and recommendations. Inspectors may place 32045
"off sale" any article of bedding or stuffed toy offered for sale, 32046
or found in the possession of any person with the intent to sell, 32047
in violation of section 3713.02 of the Revised Code. Inspectors 32048
shall perform other duties related to inspection and examination 32049

as prescribed by the superintendent. 32050

(2) When articles are placed "off sale" under division (A)(1) 32051
of this section, they shall be tagged, and the tag shall not be 32052
removed except by an authorized representative of the division of 32053
~~labor~~ industrial compliance after the violator demonstrates to the 32054
satisfaction of the superintendent proof of compliance with the 32055
requirements of section 3713.08 of the Revised Code. 32056

(B)(1) When an inspector has cause to believe that any 32057
bedding or stuffed toy is not tagged or labeled in accordance with 32058
section 3713.08 of the Revised Code, the inspector may open any 32059
seam of the bedding or stuffed toy in question to examine the 32060
material used or contained within it and take a reasonable amount 32061
of the material for testing and analysis and, if necessary, 32062
examine any and all purchase records in order to determine the 32063
contents or the kind of material used in the bedding or stuffed 32064
toy in question. An inspector may seize and hold evidence of any 32065
article of bedding, stuffed toy, or material manufactured, made, 32066
possessed, renovated, remade, or repaired, sold, or offered for 32067
sale contrary to this chapter. 32068

(2) Immediately after seizing articles believed to be in 32069
violation of this chapter, the inspector immediately shall report 32070
the seizure to the superintendent. The superintendent shall hold a 32071
hearing in accordance with Chapter 119. of the Revised Code or 32072
make a ruling in the matter. If the superintendent finds that the 32073
article of bedding, stuffed toy, or material is not in violation 32074
of this chapter, the superintendent shall order the item or items 32075
returned to the owner. If the superintendent finds a violation of 32076
this chapter, the superintendent may do either of the following: 32077

(a) Return the articles to the owner for proper treatment, 32078
tagging or labeling, or other action as ordered by the 32079
superintendent, subject to the requirement that the articles be 32080
reinspected at cost to the owner, prior to being sold or offered 32081

for sale; 32082

(b) Report the violation to the appropriate prosecuting attorney or city law director. 32083
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(C) The superintendent, at reasonable times and upon reasonable notice, may examine or cause to be examined the records of any importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, mobile home and recreational vehicle dealer, conversion van dealer, secondhand dealer, or auction house to determine compliance with this chapter. The superintendent may enter into contracts, pursuant to procedures prescribed by the superintendent, with persons to examine these records to determine compliance with this chapter. These persons may collect and remit to the superintendent any amounts due under this chapter. 32085
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(D) Records audited pursuant to division (C) of this section are confidential and shall not be disclosed except as required by section 149.43 of the Revised Code, or as the superintendent finds necessary for the proper administration of this chapter. 32095
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(E) In the case of any investigation or examination, or both, that requires investigation or examination outside of this state of any importer, manufacturer, or wholesaler of stuffed toys or articles of bedding, or of any mobile home or recreational vehicle dealer, conversion van dealer, secondhand dealer, or auction house, the superintendent may require the investigated or examined person to pay the actual expense of the investigation or examination. The superintendent shall provide an itemized statement of actual expenses to the investigated or examined person. 32099
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(F) Whenever the superintendent has reason to believe, from the superintendent's own information, upon complaint, or otherwise, that any person has engaged in, is engaging in, or is about to engage in any practice prohibited by this chapter, or 32109
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when the superintendent has reason to believe that it is necessary 32113
for public health and safety, the superintendent may do any of the 32114
following: 32115

(1) Investigate violations of this chapter, and for that 32116
purpose, may subpoena witnesses in connection with the 32117
investigation. The superintendent may make application to the 32118
appropriate court of common pleas for an order enjoining the 32119
violation of this chapter, and upon a showing by the 32120
superintendent that any registrant or person acting in a manner 32121
that requires registration has violated or is about to violate 32122
this chapter, an injunction, restraining order, or other order as 32123
may be appropriate shall be granted by the court. 32124

(2) Compel by subpoena the attendance of witnesses to testify 32125
in relation to any matter over which the superintendent has 32126
jurisdiction and that is the subject of inquiry and investigation 32127
by the superintendent, and require the production of any book, 32128
paper, or document pertaining to the matter. In case any person 32129
fails to file any statement or report, obey any subpoena, give 32130
testimony, or produce any books, records, or papers as required by 32131
a subpoena, the court of common pleas of any county in the state, 32132
upon application made to it by the superintendent, shall compel 32133
obedience by attachment proceedings for contempt. 32134

(3) Suspend or revoke the registration of any importer, 32135
manufacturer, or wholesaler of stuffed toys or articles of 32136
bedding, mobile home or recreational vehicle dealer, conversion 32137
van dealer, secondhand dealer, or auction house; 32138

(4) Submit evidence of the violation or violations to any 32139
city prosecutor, city director of law, or prosecuting attorney 32140
with authority to prosecute. If the city prosecutor, city director 32141
of law, or prosecuting attorney with authority to prosecute fails 32142
to prosecute, the superintendent shall submit the evidence to the 32143
attorney general who may proceed with the prosecution. 32144

Sec. 3713.10. All money collected under this chapter shall be 32145
deposited into the state treasury to the credit of the ~~labor~~ 32146
industrial compliance operating fund created under section 121.084 32147
of the Revised Code. 32148

Sec. 3714.073. (A) In addition to the fee levied under 32149
division (A)(1) of section 3714.07 of the Revised Code, beginning 32150
July 1, 2005, there is hereby levied on the disposal of 32151
construction and demolition debris at a construction and 32152
demolition debris facility that is licensed under this chapter or 32153
at a solid waste facility that is licensed under Chapter 3734. of 32154
the Revised Code the following fees: 32155

(1) A fee of twelve and one-half cents per cubic yard or 32156
twenty-five cents per ton, as applicable, the proceeds of which 32157
shall be deposited in the state treasury to the credit of the soil 32158
and water conservation district assistance fund created in section 32159
1515.14 of the Revised Code; 32160

(2) A fee of thirty-seven and one-half cents per cubic yard 32161
or seventy-five cents per ton, as applicable, the proceeds of 32162
which shall be deposited in the state treasury to the credit of 32163
the recycling and litter prevention fund created in section 32164
~~1502.02~~ 3736.03 of the Revised Code. 32165

(B) The owner or operator of a construction and demolition 32166
debris facility or a solid waste facility, as a trustee of the 32167
state, shall collect the fees levied under this section and remit 32168
the money from the fees in the manner that is established in 32169
divisions (A)(2) and (3) of section 3714.07 of the Revised Code 32170
for the fee that is levied under division (A)(1) of that section 32171
and may enter into an agreement for the quarterly payment of the 32172
fees in the manner established in division (B) of that section for 32173
the quarterly payment of the fee that is levied under division 32174

(A)(1) of that section. 32175

(C) The money that is collected from a construction and 32176
demolition debris facility or a solid waste facility and remitted 32177
to a board of health or the director of environmental protection, 32178
as applicable, pursuant to this section shall be transmitted by 32179
the board or director to the treasurer of state not later than 32180
forty-five days after the receipt of the money to be credited to 32181
the soil and water conservation district assistance fund or the 32182
recycling and litter prevention fund, as applicable. 32183

(D) This section does not apply to the disposal of 32184
construction and demolition debris at a solid waste facility that 32185
is licensed under Chapter 3734. of the Revised Code if the owner 32186
or operator of the facility chooses to collect fees on the 32187
disposal of the construction and demolition debris that are 32188
identical to the fees that are collected under Chapters 343. and 32189
3734. of the Revised Code on the disposal of solid wastes at that 32190
facility. 32191

(E) This section does not apply to the disposal of source 32192
separated materials that are exclusively composed of reinforced or 32193
nonreinforced concrete, asphalt, clay tile, building or paving 32194
brick, or building or paving stone at a construction and 32195
demolition debris facility that is licensed under this chapter 32196
when either of the following applies: 32197

(1) The materials are placed within the limits of 32198
construction and demolition debris placement at the facility as 32199
specified in the license issued to the facility under section 32200
3714.06 of the Revised Code, are not placed within the unloading 32201
zone of the facility, and are used as a fire prevention measure in 32202
accordance with rules adopted by the director under section 32203
3714.02 of the Revised Code. 32204

(2) The materials are not placed within the unloading zone of 32205

the facility or within the limits of construction and demolition 32206
debris placement at the facility as specified in the license 32207
issued to the facility under section 3714.06 of the Revised Code, 32208
but are used as fill material, either alone or in conjunction with 32209
clean soil, sand, gravel, or other clean aggregates, in legitimate 32210
fill operations for construction purposes at the facility or to 32211
bring the facility up to a consistent grade. 32212

Sec. 3715.01. (A) As used in this chapter: 32213

(1) ~~"Public health council" means the public health council~~ 32214
~~established by section 3701.33 of the Revised Code.~~ 32215

~~(2)~~ "Person" means an individual, partnership, corporation, 32216
or association. 32217

~~(3)~~(2) "Food" means: 32218

(a) Articles used for food or drink for humans or animals; 32219

(b) Chewing gum; 32220

(c) Articles used for components of any such articles. 32221

~~(4)~~(3) "Drug" means: 32222

(a) Articles recognized in the United States pharmacopoeia 32223
and national formulary, or any supplement to them; 32224

(b) Articles intended for use in the diagnosis, cure, 32225
mitigation, treatment, or prevention of disease in humans or 32226
animals; 32227

(c) Articles, other than food, intended to affect the 32228
structure or any function of the body of humans or other animals; 32229

(d) Articles intended for use as a component of any of the 32230
foregoing articles, other than devices or their components, parts, 32231
or accessories. 32232

~~(5)~~(4) "Device," except when used in division (B)(1) of this 32233

section and in division (A)(10) of section 3715.52, division (F) 32234
of section 3715.60, division (A)(5) of section 3715.64, and 32235
division (C) of section 3715.67 of the Revised Code, means any 32236
instrument, apparatus, implement, machine, contrivance, implant, 32237
in vitro reagent, or other similar or related article, including 32238
any component, part, or accessory, that is any of the following: 32239

(a) Recognized in the United States pharmacopoeia and 32240
national formulary, or any supplement to them; 32241

(b) Intended for use in the diagnosis of disease or other 32242
conditions, or in the cure, mitigation, treatment, or prevention 32243
of disease in humans or animals; 32244

(c) Intended to affect the structure or any function of the 32245
body of humans or animals, and that does not achieve any of its 32246
principal intended purposes through chemical action within or on 32247
the body of humans or animals and is not dependent upon being 32248
metabolized for the achievement of any of its principal intended 32249
purposes. 32250

~~(6)~~(5) "Cosmetic" means: 32251

(a) Articles intended to be rubbed, poured, sprinkled, or 32252
sprayed on, introduced into, or otherwise applied to the human 32253
body or any part thereof for cleansing, beautifying, promoting 32254
attractiveness, or altering the appearance; 32255

(b) Articles intended for use as a component of any such 32256
article, except that "cosmetic" does not include soap. 32257

~~(7)~~(6) "Label" means a display of written, printed, or 32258
graphic matter upon the immediate container, exclusive of package 32259
liners, of any article. 32260

Any word, statement, or other information required by this 32261
chapter to appear on the label must appear on the outside 32262
container or wrapper, if any, of the retail package of the 32263

article, or the label must be easily legible through the outside container or wrapper. 32264
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~~(8)~~(7) "Labeling" means all labels and other written, printed, or graphic matter: 32266
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(a) Upon an article or any of its containers or wrappers; 32268

(b) Accompanying such article. 32269

~~(9)~~(8) "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or that are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics. 32270
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~~(10)~~(9) "New drug" means: 32274

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; 32275
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(b) Any drug the composition of which is such that the drug, as a result of investigation to determine its safety for use under such conditions, has become so recognized, but that has not, other than in an investigation, been used to a material extent or for a material time under such conditions. 32280
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~~(11)~~(10) "Contaminated with filth" applies to any food, drug, device, or cosmetic that has not been protected as far as may be necessary by all reasonable means from dust, dirt, and all foreign or injurious substances. 32285
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~~(12)~~(11) "Honey" means the nectar and saccharine exudation of plants that has been gathered, modified, and stored in a honeycomb by honeybees. 32289
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~~(13)~~(12) "Finished dosage form" means the form of a drug that is, or is intended to be, dispensed or administered to humans or 32292
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animals and requires no further manufacturing or processing other than packaging, reconstituting, or labeling.

~~(14)~~(13)(a) "Manufacture" means the planting, cultivating, harvesting, processing, making, preparing, or otherwise engaging in any part of the production of a drug by propagating, compounding, converting, or processing, either directly or indirectly by extracting from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes the following:

(i) Any packaging or repackaging of the drug or labeling or relabeling of its container, the promotion and marketing of the drug, and other activities incident to production;

(ii) The preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, licensed health professionals authorized to prescribe drugs, or other persons.

(b) "Manufacture" does not include the preparation, compounding, packaging, or labeling of a drug by a pharmacist as an incident to either of the following:

(i) Dispensing a drug in the usual course of professional practice;

(ii) Providing a licensed health professional authorized to prescribe drugs with a drug for the purpose of administering to patients or for using the drug in treating patients in the professional's office.

~~(15)~~(14) "Dangerous drug" has the same meaning as in section 4729.01 of the Revised Code.

~~(16)~~(15) "Generically equivalent drug" means a drug that contains identical amounts of the identical active ingredients, but not necessarily containing the same inactive ingredients, that

meets the identical compendial or other applicable standard of 32324
identity, strength, quality, and purity, including potency, and 32325
where applicable, content uniformity, disintegration times, or 32326
dissolution rates, as the prescribed brand name drug and the 32327
manufacturer or distributor holds, if applicable, either an 32328
approved new drug application or an approved abbreviated new drug 32329
application unless other approval by law or from the federal food 32330
and drug administration is required. 32331

No drug shall be considered a generically equivalent drug for 32332
the purposes of this chapter if it has been listed by the federal 32333
food and drug administration as having proven bioequivalence 32334
problems. 32335

~~(17)~~(16) "Licensed health professional authorized to 32336
prescribe drugs" and "prescriber" have the same meanings as in 32337
section 4729.01 of the Revised Code. 32338

~~(18)~~(17) "Home" means the primary residence occupied by the 32339
residence's owner, on the condition that the residence contains 32340
only one stove or oven used for cooking, which may be a double 32341
oven, designed for common residence usage and not for commercial 32342
usage, and that the stove or oven be operated in an ordinary 32343
kitchen within the residence. 32344

~~(19)~~(18) "Potentially hazardous food" means a food that is 32345
natural or synthetic, to which any of the following apply: 32346

(a) It has a pH level greater than 4.6 when measured at 32347
seventy-five degrees fahrenheit or twenty-four degrees celsius. 32348

(b) It has a water activity value greater than 0.85. 32349

(c) It requires temperature control because it is in a form 32350
capable of supporting the rapid and progressive growth of 32351
infectious or toxigenic microorganisms, the growth and toxin 32352
production of clostridium botulinum, or in the case of raw shell 32353
eggs, the growth of salmonella enteritidis. 32354

~~(20)~~(19) "Cottage food production operation" means a person 32355
who, in the person's home, produces food items that are not 32356
potentially hazardous foods, including bakery products, jams, 32357
jellies, candy, fruit butter, and similar products specified in 32358
rules adopted pursuant to section 3715.025 of the Revised Code. 32359

(B) For the purposes of sections 3715.52 to 3715.72 of the 32360
Revised Code: 32361

(1) If an article is alleged to be misbranded because the 32362
labeling is misleading, or if an advertisement is alleged to be 32363
false because it is misleading, then in determining whether the 32364
labeling or advertisement is misleading, there shall be taken into 32365
account, among other things, not only representations made or 32366
suggested by statement, word, design, device, sound, or in any 32367
combination thereof, but also the extent to which the labeling or 32368
advertisement fails to reveal facts material in the light of such 32369
representations or material with respect to consequence which may 32370
result from the use of the article to which the labeling or 32371
advertisement relates under the conditions of use prescribed in 32372
the labeling or advertisement thereof or under such conditions of 32373
use as are customary or usual. 32374

(2) The provisions regarding the selling of food, drugs, 32375
devices, or cosmetics include the manufacture, production, 32376
processing, packing, exposure, offer, possession, and holding of 32377
any such article for sale; and the sale, dispensing, and giving of 32378
any such article, and the supplying or applying of any such 32379
articles in the conduct of any food, drug, or cosmetic 32380
establishment. The provisions do not prohibit a licensed health 32381
professional authorized to prescribe drugs from administering or 32382
personally furnishing a drug or device to a patient. 32383

(3) The representation of a drug, in its labeling or 32384
advertisement, as an antiseptic is a representation that it is a 32385
germicide, except in the case of a drug purporting to be, or 32386

represented as, an antiseptic for inhibitory use as a wet 32387
dressing, ointment, dusting powder, or other use that involves 32388
prolonged contact with the body. 32389

(4) Whenever jurisdiction is vested in the director of 32390
agriculture or the state board of pharmacy, the jurisdiction of 32391
the board shall be limited to the sale, offering for sale, giving 32392
away, delivery, or dispensing in any manner of drugs at the 32393
wholesale and retail levels or to the consumer and shall be 32394
exclusive in the case of such sale, offering for sale, giving 32395
away, delivery, or dispensing in any manner of drugs at the 32396
wholesale and retail levels or to the consumer in any place where 32397
prescriptions are dispensed or compounded. 32398

(5) To assist in effectuating the provisions of those 32399
sections, the director of agriculture or state board of pharmacy 32400
may request assistance or data from any government or private 32401
agency or individual. 32402

Sec. 3715.025. (A) A cottage food production operation shall 32403
not process acidified foods, low acid canned foods, or potentially 32404
hazardous foods. 32405

(B) The director of agriculture shall adopt rules in 32406
accordance with Chapter 119. of the Revised Code specifying the 32407
food items a cottage food production operation may produce that 32408
are in addition to the food items identified by name in division 32409
(A)~~(20)~~(19) of section 3715.01 of the Revised Code. The director 32410
shall not adopt rules that permit a cottage food production 32411
operation to produce any food that is a potentially hazardous 32412
food. 32413

Sec. 3715.60. Food is misbranded within the meaning of 32414
sections 3715.01, 3715.02, 3715.022, and 3715.52 to 3715.72 of the 32415
Revised Code, if: 32416

(A) Its labeling is false or misleading in any particular.	32417
(B) It is offered for sale under the name of another food.	32418
(C) Its container is so made, formed, or filled as to be misleading.	32419 32420
(D) It is an imitation of another food, unless its label bears in type of uniform size and prominence, the word "imitation," and immediately thereafter the name of the food imitated.	32421 32422 32423 32424
(E) When it is in package form, it does not bear a label containing:	32425 32426
(1) The name and place of business of the manufacturer, packer, or distributor;	32427 32428
(2) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that reasonable variations shall be permitted, and exemptions as to small packages shall be established by rules adopted by the director of agriculture;	32429 32430 32431 32432 32433
(3) In the case of food subject to section 3715.023 of the Revised Code, the information specified in that section.	32434 32435
(F) Any word, statement, or other information required by or under authority of sections 3715.01, 3715.02, and 3715.52 to 3715.72 of the Revised Code, to appear on the label or labeling is not prominently placed thereon with such conspicuousness as compared with other words, statements, designs, or devices, in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.	32436 32437 32438 32439 32440 32441 32442 32443
(G) It purports to be, or is represented as, a food for which a definition and standard of identity have been prescribed by statute, or by any rule adopted under an existing statute, or by	32444 32445 32446

rule as provided by section 3715.02 of the Revised Code, unless: 32447

(1) It conforms to such definition and standard. 32448

(2) Its label bears the name of the food specified in the 32449
definition and standard, and, insofar as may be required by such 32450
statute or rules, the common names of optional ingredients, other 32451
than spices, flavoring, and coloring, present in such food. 32452

(H) It purports to be or is represented as: 32453

(1) A food for which a standard of quality has been 32454
prescribed by rule as provided by section 3715.02 of the Revised 32455
Code and its quality falls below the standard unless its label 32456
bears, in the manner and form that the rules specify, a statement 32457
that it falls below the standard; 32458

(2) A food for which a standard or standards of fill of 32459
container have been prescribed by rule as provided by section 32460
3715.02 of the Revised Code, and it falls below the standard of 32461
fill of container applicable thereto, unless its label bears, in 32462
the manner and form that the rules specify, a statement that it 32463
falls below the standard. 32464

(I) It is not subject to the provisions of division (G) of 32465
this section, unless it bears labeling clearly giving: 32466

(1) The common or usual name of the food, if any; 32467

(2) In case it is fabricated from two or more ingredients, 32468
the common or usual name of each ingredient; except that spices, 32469
flavorings, and colorings, other than those sold as such, may be 32470
designated as spices, flavorings, and colorings, without naming 32471
each; provided, that, to the extent that compliance with the 32472
requirements of division (I)(2) of this section is impractical or 32473
results in deception or unfair competition, exemptions shall be 32474
established by rules adopted by the director; and provided that 32475
these requirements shall not apply to any carbonated beverage of 32476

which a full and correct statement of the ingredients, to the 32477
extent prescribed by division (I)(2) of this section, has been 32478
filed under oath with the director. 32479

(J) It purports to be or is represented to be for special 32480
dietary uses, unless its label bears such information concerning 32481
its vitamin, mineral, and other dietary properties as is provided 32482
by rules ~~proposed~~ adopted by the director ~~and adopted by the~~ 32483
~~public health council~~, as necessary, in order to fully inform 32484
purchasers as to its value for such uses. 32485

(K) It bears or contains any artificial flavoring, artificial 32486
coloring, or chemical preservative, unless it bears labeling 32487
stating that fact; provided, that to the extent that compliance 32488
with the requirements of this division is impracticable, 32489
exemptions shall be established by rules ~~proposed~~ adopted by the 32490
director ~~and adopted by the public health council~~. 32491

Sec. 3715.61. (A) Whenever the director of agriculture finds 32492
after investigation that the distribution in this state of any 32493
class of food may, by reason of contamination with microorganisms 32494
during manufacture, processing, or packing thereof in any 32495
locality, be injurious to health, and that such injurious nature 32496
cannot be adequately determined after such articles have entered 32497
commerce, and in such case only, ~~he the director~~ shall ~~propose~~ 32498
~~regulations for adoption by the public health council~~ adopt rules 32499
providing for the issuance, to manufacturers, processor, or 32500
packers of such class of food in such locality, of permits to 32501
which shall be attached such conditions governing the manufacture, 32502
processing, or packing of such class food, for such temporary 32503
period of time, as may be necessary to protect the public health; 32504
and after the effective date of such regulations, and during such 32505
temporary period, no person shall introduce or deliver for 32506
introduction into commerce any such food manufactured, processed, 32507

or packed by any such manufacturer, processor, or packer unless 32508
such manufacturer, processor, or packer holds a permit issued by 32509
the director as provided by such ~~regulations~~ rules. 32510

(B) The director is authorized to suspend immediately upon 32511
notice any permit issued under authority of this section if it is 32512
found that any of the conditions of the permit have been violated. 32513
The holder of a permit so suspended shall be privileged at any 32514
time to apply for the reinstatement of such permit, and the 32515
director shall, immediately after prompt hearing and on inspection 32516
of the establishment, reinstate such permit if it is found that 32517
adequate measures have been taken to comply with and maintain the 32518
conditions of the permit, as originally issued, or as amended. 32519

(C) The director shall have access to any factory or 32520
establishment, the operator of which holds a permit from the 32521
director for the purpose of ascertaining whether or not the 32522
conditions of the permit are being complied with, and denial of 32523
access for such inspection shall be ground for suspension of the 32524
permit until such access is freely given by the operator. 32525

Sec. 3715.62. Any poisonous or deleterious substance added to 32526
any food, except where such substance is required in the 32527
production thereof or cannot be avoided by good manufacturing 32528
practice, shall be unsafe for purposes of the application of 32529
division (B) of section 3715.59 of the Revised Code, but when such 32530
substance is so required or cannot be so avoided, the director of 32531
agriculture shall ~~propose regulations for adoption by the public~~ 32532
~~health council~~ adopt rules limiting the quantity therein or 32533
thereon to such extent as the director finds necessary for the 32534
protection of public health, and any quantity exceeding the limits 32535
so fixed shall also be deemed to be unsafe for purposes of the 32536
application of division (B) of section 3715.59 of the Revised 32537
Code. While such a regulation is in effect limiting the quantity 32538

of any such substance in the case of any food, such food shall 32539
not, by reason of bearing or containing any added amount of such 32540
substance, be considered to be adulterated within the meaning of 32541
division (A) of section 3715.59 of the Revised Code. In 32542
determining the quantity of such added substance to be tolerated 32543
in or on different articles of food, the director shall take into 32544
account the extent to which the use of such substance is required 32545
or cannot be avoided in the production of each such article and 32546
the other ways in which the consumer may be affected by the same 32547
or other poisonous or deleterious substances. 32548

Sec. 3715.68. (A) An advertisement of food, drug, device, or 32549
cosmetic is false if it is false or misleading in any particular. 32550

(B) For the purpose of sections 3715.01 and 3715.52 to 32551
3715.72 of the Revised Code, the advertisement of a drug or device 32552
representing it to have any effect in albuminuria, appendicitis, 32553
arteriosclerosis, blood poison, bone disease, Bright's disease, 32554
cancer, carbuncles, cholecystitis, diabetes, diphtheria, dropsy, 32555
erysipelas, gallstones, heart and vascular diseases, high blood 32556
pressure, mastoiditis, measles, meningitis, mumps, nephritis, 32557
otitis media, paralysis, pneumonia, poliomyelitis (infantile 32558
paralysis), prostate gland disorders, pyelitis, scarlet fever, 32559
sexual impotence, sinus infection, tuberculosis, tumors, typhoid, 32560
uremia, venereal disease, is also false, except that no 32561
advertisement not in violation of division (A) of this section is 32562
false under this division if it is disseminated only to members of 32563
the medical, dental, pharmaceutical, or veterinary profession, or 32564
appears only in the scientific periodicals of these professions; 32565
provided, that whenever the director of agriculture determines 32566
that an advance in medical science has made any type of 32567
self-medication safe as to any of the diseases named above, the 32568
director shall ~~propose regulations for adoption by the public~~ 32569
~~health council~~ adopt rules authorizing the advertisement of drugs 32570

having curative or therapeutic effect for such disease, subject to 32571
such conditions and restrictions as the director may deem 32572
necessary in the interests of public health; provided, that this 32573
division shall not be construed as indicating that self-medication 32574
for diseases other than those named in this section is safe or 32575
efficacious. 32576

Sec. 3716.01. As used in sections 3716.01 to 3716.07, 32577
inclusive, of the Revised Code: 32578

(A) "Department" means the department of health. 32579

(B) "Director" means the director of health. 32580

(C) "Person" includes an individual, partnership, 32581
corporation, or association. 32582

(D) "Hazardous substance" means any substance or mixture of 32583
substances which is toxic, corrosive, an irritant, strong 32584
sensitizer, flammable, or which generates pressure through 32585
decomposition, heat, or other means, if such substance or mixture 32586
of substances may cause substantial personal injury or illness 32587
during any customary or reasonably anticipated handling or use. 32588

(E) "Toxic" applies to any substance which has the inherent 32589
capacity to produce bodily injury to man through ingestion, 32590
inhalation, or absorption through any body surface. 32591

(F)(1) "Highly toxic" means any substance which falls within 32592
any of the following categories: 32593

(a) Produces death within fourteen days in half or more than 32594
half of a group of ten or more laboratory white rats each weighing 32595
between two hundred and three hundred grams, at a single dose of 32596
fifty milligrams or less per kilogram of body weight, when orally 32597
administered; 32598

(b) Produces death within fourteen days in half or more than 32599
half of a group of ten or more laboratory white rats each weighing 32600

between two hundred and three hundred grams, when inhaled 32601
continuously for a period of one hour or less at an atmospheric 32602
concentration of two hundred parts per million by volume or less 32603
of gas, vapor, mist, or dust provided such concentration is likely 32604
to be encountered by ~~man~~ a human being when the substance is used 32605
in any reasonably foreseeable manner; 32606

(c) Produces death within fourteen days in half or more than 32607
half of a group of ten or more rabbits tested in a dosage of two 32608
hundred milligrams or less per kilogram of body weight, when 32609
administered by continuous contact with the bare skin for 32610
twenty-four hours or less. 32611

(2) If the director finds that available data on human 32612
experience with any substance indicates results different from 32613
those obtained on animals in the above named dosages or 32614
concentrations, the human data shall take precedence. 32615

(G) "Corrosive" means any substance which in contact with 32616
living tissue will cause destruction of tissue by chemical action; 32617
but shall not refer to action on inanimate surfaces. 32618

(H) "Irritant" means any substance not corrosive within the 32619
meaning of division (G) of this section which on immediate, 32620
prolonged, or repeated contact with normal living tissue will 32621
induce a local inflammatory reaction. 32622

(I) "Strong sensitizer" means any substance which will cause 32623
on normal living tissue, through an allergic or photodynamic 32624
process, a hypersensitivity which becomes evident on reapplication 32625
of the same substance and which is designated as such by the 32626
director. Before designating any substance as a strong sensitizer, 32627
the director shall, after public hearing following due notice, 32628
find that the frequency of occurrence and severity of the reaction 32629
indicate a significant potential for causing hypersensitivity. 32630

(J) "Extremely flammable" applies to any substance which has 32631

a flash point at or below twenty degrees Fahrenheit as determined 32632
by the tagliabue open cut tester. 32633

(K) "Flammable" applies to any substance which has a flash 32634
point of above twenty degrees to and including eighty degrees 32635
Fahrenheit, as determined by the tagliabue open cut tester; except 32636
that the flammability of the contents of self-pressurized 32637
containers shall be determined by methods generally applicable to 32638
such containers and established by regulation of the ~~public health~~ 32639
~~council~~ director. 32640

(L) "Label" means a display of written, printed, or graphic 32641
matter upon or attached to the immediate package or container of 32642
any substance. Any word, statement, or other information required 32643
by sections 3716.01 to 3716.07, inclusive, of the Revised Code, to 32644
appear on the label must also appear (1) on the outside container 32645
or wrapper, if any, unless it is easily legible through the 32646
outside container or wrapper, and (2) on all accompanying 32647
literature where there are directions for use, written or 32648
otherwise. 32649

(M) "Immediate container" does not include package liners. 32650

(N) "Misbranded package" means any container of a hazardous 32651
substance intended or suitable for household use which fails to 32652
bear a label: 32653

(1) Which states conspicuously: 32654

(a) The name and place of business of the manufacturer, 32655
packer, or distributor; 32656

(b) The common or usual name, or the chemical name or the 32657
recognized generic name (not trade name only) of the hazardous 32658
substance or of each component which contributes substantially to 32659
its hazard; 32660

(c) The signal word "DANGER" on substances which are 32661

extremely flammable, corrosive, or which: 32662

(i) Produce death within fourteen days in half or more than 32663
half of a group of ten or more laboratory white rats each weighing 32664
between two hundred and three hundred grams, at a single dose of 32665
one gram or less per kilogram of body weight, when orally 32666
administered; 32667

(ii) Produce death within fourteen days in half or more than 32668
half of a group of ten or more laboratory white rats each weighing 32669
between two hundred and three hundred grams, when inhaled 32670
continuously for a period of one hour or less at an atmospheric 32671
concentration of two thousand parts per million by volume of gas, 32672
vapor, mist, or dust, provided such concentration is likely to be 32673
encountered by ~~man~~ a human being when the substances are used in 32674
any reasonably foreseeable manner; 32675

(iii) Produce death within fourteen days in half or more than 32676
half of a group of ten or more rabbits tested in a dosage of one 32677
gram or less per kilogram of body weight, when administered by 32678
continuous contact with the bare skin for twenty-four hours or 32679
less; 32680

(iv) If the director finds that available data on human 32681
experience with any substance indicates results different from 32682
those obtained on animals in the above named dosages or 32683
concentrations, ~~he~~ the director may require the use of the signal 32684
word "DANGER" on such substance or permit use of the signal word 32685
"WARNING" or "CAUTION" on such substance. 32686

(d) The signal word "WARNING" or "CAUTION" on all other 32687
hazardous substances; 32688

(e) An affirmative statement of the principal hazard or 32689
hazards, such as "Flammable," "Vapor Harmful," "Causes Burns," 32690
"Absorbed Through Skin," or similar wording descriptive of the 32691
hazard; 32692

(f) Precautionary measures describing the action to be followed or avoided;	32693 32694
(g) Instructions, when necessary, for the first-aid treatment in case of contact or exposure, if the substance is hazardous through contact or exposure;	32695 32696 32697
(h) The word "poison" for any hazardous substance which is defined as "highly toxic" by division (F) of this section;	32698 32699
(i) Instructions for handling and storage of packages which require special care in handling or storage;	32700 32701
(j) The statement "Keep out of the reach of children," or its practical equivalent.	32702 32703
(2) On which any statements required under division (N) (1) of this section are located prominently and are in the English language in legible type in contrast by typography, layout, or color with other printed matter on the label.	32704 32705 32706 32707
The public health council <u>director</u> shall, by regulations, provide for minimum information which shall appear on the labels for small packages, which labels need not include all of the information required by this section. The director may permit less than the foregoing statement of the hazard or precautionary measures for labels of hazardous substances presenting only minor hazards; and the term "misbranded package" does not apply to packages of economic poisons subject to the "Federal Insecticide, Fungicide, and Rodenticide Act," 61 Stat. 163 (1947), 7 U.S.C.A. 135, nor to packages of foods, drugs, and cosmetics subject to the "Federal Food, Drug, and Cosmetic Act," nor to sections 3715.01 to 3715.72, inclusive, of the Revised Code.	32708 32709 32710 32711 32712 32713 32714 32715 32716 32717 32718 32719
Sec. 3716.03. The director of health shall:	32720
(A) Propose and submit regulations for adoption by the public health council, subject to sections 119.01 to 119.13, inclusive,	32721 32722

Adopt rules in accordance with Chapter 119. of the Revised Code, 32723
for the efficient enforcement of section 3716.02 of the Revised 32724
Code; 32725

(B) Conduct examinations, inspections, and investigations for 32726
the purpose of establishing such regulations, through such 32727
officers of the department of health or the boards of health, as 32728
~~he~~ the director delegates; 32729

(C) Designate officers and employees to enter at reasonable 32730
times any factory, warehouse, or establishment in which hazardous 32731
substances are held, or to enter any vehicle being used to 32732
transport or hold such hazardous substance: 32733

(1) For the purpose of determining the nature of such 32734
substances; 32735

(2) To inspect or copy all records showing the movement of 32736
any such hazardous substance, or the holding thereof during or 32737
after such movement, and the quantity, shipper, and consignee 32738
thereof; provided, evidence obtained under this subdivision shall 32739
not be used in a criminal prosecution of the person from whom 32740
obtained; 32741

(D) Inspect and sample, upon tender of reasonable price for 32742
such sample, at reasonable times and within reasonable limits and 32743
in a reasonable manner, finished hazardous substances in retail 32744
packages and labeling thereon in such factory, warehouse, 32745
establishment, or vehicle. 32746

Sec. 3717.01. As used in this chapter: 32747

(A) "Ohio uniform food safety code" means the food safety and 32748
related standards adopted under section 3717.05 of the Revised 32749
Code. 32750

(B) "Food" means any raw, cooked, or processed edible 32751
substance used or intended for use in whole or in part for human 32752

consumption. "Food" includes ice, water or any other beverage, 32753
food ingredients, and chewing gum. 32754

(C) "Retail food establishment" means a premises or part of a 32755
premises where food is stored, processed, prepared, manufactured, 32756
or otherwise held or handled for retail sale. Except when 32757
expressly provided otherwise, "retail food establishment" includes 32758
a mobile retail food establishment, seasonal retail food 32759
establishment, and temporary retail food establishment. 32760

As used in this division: 32761

(1) "Retail" means the sale of food to a person who is the 32762
ultimate consumer. 32763

(2) "Prepared" means any action that affects a food, 32764
including receiving and maintaining it at the temperature at which 32765
it was received. 32766

(D) "Seasonal retail food establishment" means a retail food 32767
establishment, other than a mobile retail food establishment, that 32768
is operated for not more than six months in a licensing period. 32769

(E) "Temporary retail food establishment" means a retail food 32770
establishment that is operated at an event for not more than five 32771
consecutive days, except when operated for more than five 32772
consecutive days pursuant to division (E)(2) of section 3717.23 of 32773
the Revised Code. 32774

(F) "Food service operation" means a place, location, site, 32775
or separate area where food intended to be served in individual 32776
portions is prepared or served for a charge or required donation. 32777
As used in this division, "served" means a response made to an 32778
order for one or more individual portions of food in a form that 32779
is edible without washing, cooking, or additional preparation and 32780
"prepared" means any action that affects a food other than 32781
receiving or maintaining it at the temperature at which it was 32782
received. 32783

Except when expressly provided otherwise, "food service operation" includes a catering food service operation, food delivery sales operation, mobile food service operation, seasonal food service operation, temporary food service operation, and vending machine location.

(G) "Catering food service operation" means a food service operation where food is prepared for serving at a function or event held at an off-premises site, for a charge determined on a per-function or per-event basis.

(H) "Food delivery sales operation" means a food service operation from which individual portions of food are ordered by a customer, prepared at another food service operation or a retail food establishment, and delivered to the customer by a person other than an employee of the food service operation or retail food establishment that prepared the food.

(I) "Mobile food service operation" means a food service operation that is operated from a movable vehicle, portable structure, or watercraft and that routinely changes location, except that if the operation remains at any one location for more than forty consecutive days, the operation is no longer a mobile food service operation. "Mobile food service operation" includes a food service operation that does not remain at any one location for more than forty consecutive days and serves, in a manner consistent with division (F) of this section, only frozen desserts; beverages, nuts, popcorn, candy, or similar confections; bakery products identified in section 911.01 of the Revised Code; or any combination of those items.

(J) "Seasonal food service operation" means a food service operation, other than a mobile food service operation, that is operated for not more than six months in a licensing period.

(K) "Temporary food service operation" means a food service

operation that is operated at an event for not more than five 32815
consecutive days, except when operated for more than five 32816
consecutive days pursuant to division (E)(2) of section 3717.43 of 32817
the Revised Code. 32818

(L) "Vending machine location" means an area or room where 32819
one or more vending machines are installed and operated, except 32820
that if the machines within an area are separated by more than one 32821
hundred fifty feet, each area separated by that distance 32822
constitutes a separate vending machine location. As used in this 32823
division, "vending machine" means a self-service device that 32824
automatically dispenses on the insertion of currency, tokens, or 32825
similar means a predetermined unit serving of food, either in bulk 32826
or in package, without having to be replenished after each use. 32827

(M) "Board of health" means a board of health of a city or 32828
general health district or the authority having the duties of a 32829
board of health under section 3709.05 of the Revised Code. 32830

(N) "Government entity" means this state, a political 32831
subdivision of this state, another state, or a political 32832
subdivision or other local government body of another state. 32833

(O) "Licensor" means one of the following: 32834

(1) A board of health approved under section 3717.11 of the 32835
Revised Code; 32836

(2) The director of agriculture acting pursuant to section 32837
3717.11 of the Revised Code with respect to the licensing of 32838
retail food establishments; 32839

(3) The director of health acting pursuant to section 3717.11 32840
of the Revised Code with respect to the licensing of food service 32841
operations. 32842

(P) "Licensing period" means the first day of March to the 32843
last day of February of the next succeeding year. 32844

(Q) "Mobile retail food establishment" means a retail food establishment that is operated from a movable vehicle or other portable structure, and that routinely changes location, except that if the establishment operates from any one location for more than forty consecutive days, the establishment is no longer a mobile retail food establishment.

(R) "Unprocessed," when used with respect to fruits and vegetables, means that the fruits and vegetables are not processed beyond merely rough trimming and rinsing.

(S) "Cottage food production operation" has the same meaning as in division (A)~~(20)~~(19) of section 3715.01 of the Revised Code.

Sec. 3717.04. The director of agriculture,~~the public health council,~~ and the director of health have the exclusive power in this state to adopt rules regarding retail food establishments and food service operations. The rules adopted under this chapter shall be applied uniformly throughout this state.

All rules adopted under this chapter shall be adopted in accordance with Chapter 119. of the Revised Code. Subject to the approval of the joint committee on agency rule review, portions of the rules may be adopted by referencing all or any part of any federal regulations pertaining to food safety.

Sec. 3717.05. (A) The director of agriculture and the ~~public~~ director of health ~~council~~ shall adopt rules establishing standards for safe food handling and sanitation in retail food establishments and food service operations. The rules shall be compiled as the Ohio uniform food safety code, which shall be used by the licensors of retail food establishments and food service operations in ensuring the safe handling of food in this state. All scientific provisions of the Ohio uniform food safety code that are relevant to both retail food establishments and food

service operations shall be adopted by the director of agriculture 32875
and the ~~public~~ director of health council with each other's 32876
concurrence. 32877

The Ohio uniform food safety code shall include the 32878
following: 32879

(1) Criteria for sanitation in retail food establishments and 32880
food service operations; 32881

(2) Criteria for equipment in retail food establishments and 32882
food service operations; 32883

(3) Criteria for reviewing the facility layout and equipment 32884
specifications of retail food establishments and food service 32885
operations; 32886

(4) A definition of "potentially hazardous" as it pertains to 32887
food in retail food establishments and to food in food service 32888
operations; 32889

(5) Criteria to be used in evaluating the primary business of 32890
a person or government entity for purposes of determining whether 32891
the person or entity should be licensed as a retail food 32892
establishment or food service operation. 32893

(B)(1) Except as provided in division (B)(2) of this section, 32894
if a model food code is established by the United States food and 32895
drug administration, the Ohio uniform food safety code shall be 32896
based on the most current version of the food and drug 32897
administration's model food code. If the food and drug 32898
administration adopts, modifies, or rescinds a provision in the 32899
model food code, not later than twelve months after the 32900
administration's action, the director of agriculture and ~~public~~ 32901
director of health council shall adopt, amend, or rescind 32902
provisions in the Ohio uniform food safety code to ensure that it 32903
continues to conform with the model food code. 32904

(2) The Ohio uniform food safety code may contain or omit 32905
provisions that do not correspond to the food and drug 32906
administration's model food code if the director of agriculture or 32907
the ~~public~~ director of health council, with each other's 32908
concurrence, determines either of the following: 32909

(a) That rules can be adopted under this chapter that provide 32910
protection at least as effective as that which would be provided 32911
by basing the rules on the model food code; 32912

(b) That local conditions warrant the adoption of standards 32913
that are different from the model food code. 32914

Sec. 3717.07. (A) For purposes of establishing a licensing 32915
fee under sections 3717.25 and 3717.45 of the Revised Code, the 32916
director of agriculture and the ~~public~~ director of health council 32917
shall adopt rules establishing uniform methodologies for use in 32918
calculating the costs of licensing retail food establishments in 32919
the categories specified by the director of agriculture and the 32920
costs of licensing food service operations in the categories 32921
specified by the ~~council~~ director of health. In adopting the 32922
rules, the director of agriculture and the ~~public~~ director of 32923
health ~~council~~ shall consider any recommendations received from 32924
advisory boards or other entities representing the interests of 32925
retail food establishments and food service operations. 32926

(B) The rules shall include provisions that do all of the 32927
following: 32928

(1) Provide for calculations to be made according to fiscal 32929
years rather than licensing periods; 32930

(2) Limit the direct costs that may be attributed to the use 32931
of sanitarians by establishing appropriate statewide averages that 32932
may not be exceeded; 32933

(3) Limit the indirect costs that may be included in the 32934

calculation of fees to an amount that does not exceed thirty per cent of the cost of the licensing program;

(4) Provide for a proportionate reduction in the fees to be charged if a licensor included anticipated costs in the immediately preceding calculation of licensing fees and the total amount of the anticipated costs was not incurred;

(5) Provide for a proportionate reduction in the fees to be charged if it is discovered through an audit by the auditor of state or through any other means that the licensor has charged or is charging a licensing fee that exceeds the amount that should have been charged;

(6) Provide for a twenty per cent reduction in the fees to be charged when the reduction is imposed as a penalty under division (C) of section 3717.071 of the Revised Code;

(7) With regard to any fees charged for licensing vending machine locations, the rules shall prohibit a licensor from increasing fees by a percentage of increase over the previous year's fee that exceeds the percentage of increase in the consumer price index for all urban consumers (United States city average, all items), prepared by the United States department of labor, bureau of labor statistics, for the immediately preceding calendar year.

Sec. 3717.45. (A) A licensor may charge fees for issuing and renewing food service operation licenses. Any licensing fee charged shall be used solely for the administration and enforcement of the provisions of this chapter and the rules adopted under it applicable to food service operations.

Any licensing fee charged under this section shall be based on the licensor's costs of regulating food service operations, as determined according to the uniform methodologies established

under section 3717.07 of the Revised Code. If the licensor is a board of health, a fee may be disapproved by the district advisory council in the case of a general health district or the legislative authority of the city in the case of a city health district. A disapproved fee shall not be charged by the board of health.

Except when a licensing fee is established as an emergency measure, the licensor shall hold a public hearing regarding the proposed fee. At least twenty days prior to holding a public hearing, the licensor shall give written notice of the hearing to each person or government entity holding a food service operation license that may be affected by the proposed fee. The notice shall be mailed to the last known address of the licensee and shall specify the date, time, and place of the hearing and the amount of the proposed fee. On request, the licensor shall provide the completed uniform methodology used in the calculation of the licensor's costs and the proposed fee.

(B) In addition to licensing fees, a licensor may charge fees for the following:

(1) Review of facility layout and equipment specifications pertaining to food service operations, other than mobile and temporary food service operations, or similar reviews conducted for vending machine locations;

(2) Any necessary collection and bacteriological examination of samples from food service operations, or similar services specified in rules adopted under this chapter by the ~~public~~ director of health council;

(3) Attendance at a course of study offered by the licensor in food protection as it pertains to food service operations, if the course is approved under section 3717.09 of the Revised Code.

(C)(1) The ~~public health council~~ director may determine by

rule an amount to be collected from applicants for food service 32996
operation licenses for use ~~by the director of health~~ in 32997
administering and enforcing the provisions of this chapter and the 32998
rules adopted under it applicable to food service operations. 32999
Licensors shall collect the amount prior to issuing an applicant's 33000
new or renewed license. If a licensing fee is charged under this 33001
section, the licensor shall collect the amount at the same time 33002
the fee is collected. Licensors are not required to provide notice 33003
or hold public hearings regarding amounts to be collected. 33004

(2) A licensor shall certify the amount collected under 33005
division (C)(1) of this section and transmit the amount to the 33006
treasurer of state according to the following schedule: 33007

(a) For amounts received by the licensor on or after the 33008
first day of January but not later than the thirty-first day of 33009
March, transmit the amounts not later than the fifteenth day of 33010
May; 33011

(b) For amounts received by the licensor on or after the 33012
first day of April but not later than the thirtieth day of June, 33013
transmit the amounts not later than the fifteenth day of August; 33014

(c) For amounts received by the licensor on or after the 33015
first day of July but not later than the thirtieth day of 33016
September, transmit the amounts not later than the fifteenth day 33017
of November; 33018

(d) For amounts received by the licensor on or after the 33019
first day of October but not later than the thirty-first day of 33020
December, transmit the amounts not later than the fifteenth day of 33021
February of the following year. 33022

(3) All amounts received under division (C)(2) of this 33023
section shall be deposited into the general operations fund 33024
created in section 3701.83 of the Revised Code. The director shall 33025
use the amounts solely for the administration and enforcement of 33026

the provisions of this chapter and the rules adopted under it 33027
applicable to food service operations. 33028

~~(4) The director may submit recommendations to the public 33029
health council regarding the amounts collected under division 33030
(C)(1) of this section. When making recommendations, the director 33031
shall submit a report stating the current and projected expenses 33032
of administering and enforcing the provisions of this chapter and 33033
the rules adopted under it applicable to food service operations 33034
and the total of all amounts that have been deposited in the 33035
general operations fund pursuant to division (C)(3) of this 33036
section. The director may include in the report any 33037
recommendations for modifying the department's administration and 33038
enforcement of the provisions of this chapter and the rules 33039
adopted under it applicable to food service operations. 33040~~

Sec. 3717.51. Pursuant to section 3717.04 of the Revised 33042
Code, the public director of health council shall adopt rules 33043
regarding food service operations, as follows: 33044

(A) Licensing categories for food service operations and 33045
licensing requirements for each category; 33046

(B) Standards and procedures, including a schedule of 33047
frequency, for conducting inspections of food service operations; 33048

(C) Standards and procedures for conducting investigations of 33049
complaints pertaining to food service operations; 33050

(D) Procedures to be used by the director of health in 33051
approving courses of study for persons seeking certification in 33052
food protection, standards that must be met to receive and 33053
maintain the director's approval, and procedures for withdrawing 33054
the director's approval of a course if the standards for approval 33055
are no longer being met; 33056

(E) Standards for the provision of assistance to choking 33057

victims; 33058

(F) Any other matter the ~~council~~ director considers relevant 33059
to the administration and enforcement of the provisions of this 33060
chapter applicable to food service operations. 33061

Sec. 3718.02. (A) The ~~public~~ director of health council, in 33062
accordance with Chapter 119. of the Revised Code, shall adopt, and 33063
subsequently may amend and rescind, rules of general application 33064
throughout the state to administer this chapter. Rules adopted 33065
under division (A) of this section shall do at least all of the 33066
following: 33067

(1) Require that the appropriate board of health approve or 33068
disapprove the installation, operation, and alteration of a sewage 33069
treatment system if it is not connected to a sanitary sewerage 33070
system; 33071

(2) Require a board of health, or other person as established 33072
by rule, to conduct a site evaluation for any proposed 33073
installation of a sewage treatment system; 33074

(3) Prescribe standards for the siting, design, installation, 33075
operation, monitoring, maintenance, and abandonment of sewage 33076
treatment systems that may be used in this state and for the 33077
progressive or incremental alteration or repair of an existing 33078
sewage treatment system or the progressive or incremental 33079
installation of a new system to replace an existing sewage 33080
treatment system. The rules shall be adopted so as to establish a 33081
preference for the repair of an existing sewage treatment system, 33082
when technically and economically feasible, rather than its 33083
replacement with a new system. The standards shall include at a 33084
minimum all of the following: 33085

(a) Soil absorption specifications and vertical separation 33086
distances. 33087

(i) Soil absorption specifications established in rules shall 33088
include standards regarding the sizing of sewage treatment systems 33089
in use in the state. 33090

(ii) In establishing soil absorption specifications and 33091
vertical separation distances, the rules shall identify those soil 33092
conditions that present a low or moderate risk of inadequate 33093
treatment or dispersal of sewage from sewage treatment systems. 33094
For low and moderate risk conditions, the required vertical 33095
separation distance shall not exceed eighteen inches except as 33096
authorized pursuant to rules adopted under divisions 33097
(A)(3)(a)(iii) and (iv) of this section. 33098

In addition, the rules shall identify those soil conditions 33099
that present a high risk of inadequate treatment or dispersal of 33100
sewage. For such high risk conditions, the vertical separation 33101
distance shall be set at a depth from twenty-four to thirty-six 33102
inches and shall not be lowered unless a reduction of vertical 33103
separation is granted in accordance with rules adopted under 33104
division (A)(3)(a)(iii) of this section. 33105

(iii) The rules shall establish options to be utilized by a 33106
board of health when approving the reductions of or compliance 33107
with vertical separation distances that are established in rules 33108
adopted under division (A)(3)(a)(ii) of this section. The options 33109
for a board of health in providing such approval shall include, 33110
but not be limited to: the use where deemed appropriate for a 33111
particular site of subsurface interceptor drains, perimeter 33112
drains, or engineered drainage; pretreatment of sewage; or soil 33113
elevation. 33114

(iv) The rules shall provide that a board of health may 33115
petition the director to increase the vertical separation 33116
distances required for sewage treatment systems in the applicable 33117
health district or a portion of the district when conditions 33118
present a high risk of inadequate treatment or dispersal of 33119

sewage. The rules also shall provide that the director may approve 33120
such a request upon a demonstration by the board of health that 33121
unusual or unique local conditions relating to terrain, bedrock, 33122
water table, soil fragments, or soil textures require the 33123
establishment of greater vertical separation distances within the 33124
jurisdiction of the board of health or a portion thereof. If, 33125
under the rules, the director of health approves a greater 33126
vertical separation distance, a board of health still may approve 33127
a reduction of that vertical separation distance for an individual 33128
sewage treatment system pursuant to rules adopted under division 33129
(A)(3)(a)(iii) of this section. Further, if, under the rules, the 33130
director approves a greater vertical separation distance, a person 33131
who is denied permission by a board of health to install or 33132
replace a sewage treatment system as a result of the director's 33133
approval may request a hearing in accordance with section 3718.11 33134
of the Revised Code. 33135

(b) Specifications for the quality of treated sewage effluent 33136
from household sewage treatment systems that is applied to soil on 33137
the property where a household sewage treatment system is located. 33138
The specifications established in the rules for the quality of 33139
effluent from discharging systems shall comply with discharge 33140
requirements imposed by the national pollutant discharge 33141
elimination system permit program established under section 33142
6111.03 of the Revised Code and rules adopted under it. 33143

(c) Requirements for the reasonable maintenance of a system 33144
according to maintenance requirements approved by the director of 33145
health as recommended by the sewage treatment system technical 33146
advisory committee or according to accepted standards and 33147
practices established in rules, as applicable. The requirements 33148
may include standards for service contracts or other arrangements 33149
that assure regular maintenance and upkeep of the system. In 33150
determining the reasonableness of a maintenance requirement, the 33151

director shall consider a manufacturer's maintenance requirements 33152
as well as all other maintenance alternatives. 33153

(4) Prescribe procedures for notification to boards of health 33154
of the approval of a sewage treatment system or components of a 33155
system by the director of health under section 3718.04 of the 33156
Revised Code; 33157

(5) Prescribe criteria and procedures under which boards of 33158
health shall issue installation permits, operation permits, and 33159
alteration permits for sewage treatment systems. The rules shall 33160
require as a condition of an installation permit that the 33161
installer of a system must warrant that the system was installed 33162
in accordance with all applicable rules and design requirements. 33163
In addition, the rules shall require a board of health, not later 33164
than sixty days after the issuance of an installation, operation, 33165
or alteration permit, to notify the director that the permit was 33166
issued. The rules shall require the notification to be in a format 33167
prescribed by the director and to include information related to 33168
the issuance of the permit. With the assistance of the department 33169
of health, a board of health, to the extent practicable, shall 33170
computerize the process of the issuance of permits for sewage 33171
treatment systems. 33172

(6) Require a board of health to inspect a sewage treatment 33173
system not later than twelve months after its installation to 33174
ensure that the system is operating properly. The rules shall 33175
require a board of health, not later than sixty days after the 33176
inspection, to certify to the director on a form provided by the 33177
director that the inspection was performed. 33178

(7) Require each board of health to develop a program for the 33179
administration of maintenance requirements established in rules 33180
adopted under division (A)(3)(c) of this section. The rules shall 33181
include requirements and procedures under which a person may 33182
demonstrate the required maintenance of a system in lieu of having 33183

an inspection conducted when an inspection otherwise is required. 33184
The rules shall require a board of health to provide written 33185
notice to a person that is demonstrating maintenance of a system 33186
in lieu of an inspection that if proof of the required maintenance 33187
of the system is not provided as required by rules, the system is 33188
subject to inspection by the board and the reasonable cost of the 33189
inspection must be paid by the person. The rules shall authorize a 33190
board of health to inspect any sewage treatment system if there is 33191
a good-faith complaint regarding the system, there is probable 33192
cause for the inspection, or proof of the required maintenance of 33193
the system has not been provided as required by rules. In 33194
addition, the rules shall authorize a board of health to inspect a 33195
sewage treatment system without prior notice in any instance in 33196
which the board has probable cause to believe that the system is 33197
endangering or threatening to endanger public health. The rules 33198
shall require that the reasonable costs for sewage effluent 33199
testing or evaluation be paid by the owner of a sewage treatment 33200
system that is being investigated. Further, the rules shall 33201
establish a methodology for determining the reasonable costs of an 33202
inspection in accordance with section 3709.09 of the Revised Code. 33203
The rules shall allow, but shall not require, a board of health to 33204
continue an inspection program that was established by the board 33205
prior to the effective date of the rules, provided that the 33206
program authorizes a person to demonstrate the required 33207
maintenance of a system in lieu of an inspection. 33208

(8) Require a board of health to register installers, service 33209
providers, and septage haulers that perform work within the health 33210
district; prescribe criteria and procedures for the registration; 33211
and prescribe criteria for a demonstration of competency as a part 33212
of the registration. The rules shall establish uniform statewide 33213
bonding requirements or other financial security requirements for 33214
installers, service providers, and septage haulers as a condition 33215
of registration within any health district. The rules shall 33216

establish a methodology by which the required amount of a bond or 33217
other security may be calculated for each installer, service 33218
provider, and septage hauler. The methodology, at a minimum, shall 33219
consider the number of systems installed or serviced and the type 33220
of system installed or serviced by an installer, service provider, 33221
or septage hauler on an annual basis. The rules shall provide that 33222
no board of health shall require an additional or different bond 33223
or security requirement as a condition of registration beyond the 33224
bonding and security requirements established in the rules adopted 33225
under division (A)(8) of this section. 33226

The rules shall establish a cost methodology for determining 33227
the fee for the registration of an installer, service provider, or 33228
septage hauler in any health district. 33229

(9) Prescribe requirements for the collection, 33230
transportation, disposal, and land application of domestic septage 33231
in this state from a sewage treatment system; 33232

(10) Require boards of health to maintain records that are 33233
determined necessary to ascertain compliance with this chapter and 33234
the rules adopted under it; 33235

(11) Require the manufacturer of a sewage treatment system 33236
that is authorized for use in this state in rules adopted under 33237
this section or that is approved for use in this state under 33238
section 3718.04 of the Revised Code to provide instructions for 33239
the operation and maintenance of the system. The rules shall 33240
provide that a board of health may require a copy of a 33241
manufacturer's instructions for the operation and maintenance of a 33242
system to be filed with the board prior to the installation and 33243
use of the system in the health district in which the board has 33244
jurisdiction. In addition, the rules shall require a board of 33245
health and a manufacturer to provide a copy of the operation and 33246
maintenance instructions, if available, when a board of health or 33247
a manufacturer receives a written request for instructions. 33248

(12) Prescribe criteria for the provision of written evidence 33249
of compliance with rules pertaining to sewage treatment for 33250
purposes of sections 711.05 and 711.10 of the Revised Code; 33251

(13) Pursuant to divisions (A)(1) and (3) of this section, 33252
prescribe standards for the siting, design, installation, 33253
operation, monitoring, maintenance, and abandonment of small flow 33254
on-site sewage treatment systems that may be used in this state; 33255

(14) Prescribe minimum criteria and procedures under which 33256
boards of health may establish household sewage treatment district 33257
management programs for the purpose of providing a responsive 33258
approach toward preventing or solving sewage treatment problems 33259
resulting from household sewage treatment systems within the 33260
districts established under the program. For purposes of division 33261
(A)(14) of this section, a board of health may enter into a 33262
contract with any entity to administer a household sewage 33263
treatment district management program. 33264

(15) Prescribe standards for the use of subsurface 33265
interceptor drains, perimeter drains, and engineered drainage to 33266
remove or divert any subsurface water from an area to be used for 33267
soil absorption of sewage in the soil of a sewage treatment 33268
system; 33269

(16) Prescribe standards for the inspection of septage 33270
hauling truck tanks by boards of health, including, but not 33271
limited to, tank seal safety specifications; 33272

(17) Establish standards and testing methods to ensure that 33273
all septic tanks, other disposal component tanks, dosing tanks, 33274
pump vaults, household sewage treatment disposal system holding 33275
tanks and privy vaults, or other applicable sewage disposal system 33276
components manufactured after ~~the effective date of this section~~ 33277
September 17, 2010, and used in this state are watertight and 33278
structurally sound; 33279

(18) Require a board of health to give notice and an opportunity for a hearing, pursuant to section 3718.11 of the Revised Code, to an affected property owner regarding any of the following:	33280 33281 33282 33283
(a) The denial of an installation, operation, or alteration permit for a sewage treatment system;	33284 33285
(b) The imposition of a condition on the installation of a sewage treatment system;	33286 33287
(c) The required replacement of a sewage treatment system;	33288
(d) Any other final order or decision of a board of health that is made under this chapter concerning which a property owner is claiming to be aggrieved or adversely affected.	33289 33290 33291
The rules also shall establish procedures for giving such notice and for conducting the hearing required in rules adopted under division (A)(18) of this section.	33292 33293 33294
(19) Prescribe standards for the regulation of gray water recycling systems;	33295 33296
(20) Prohibit a sewage treatment system from causing a public health nuisance;	33297 33298
(21) Define economic impact for purposes of division (B) of this section and section 3718.022 of the Revised Code.	33299 33300
The council <u>director</u> may adopt other rules under division (A) of this section that it <u>the director</u> determines are necessary to implement this chapter and to protect the public health and welfare.	33301 33302 33303 33304
At least sixty days prior to adopting a rule under division (A) of this section, the council <u>director</u> shall provide boards of health and any other interested parties an opportunity to comment on the rule.	33305 33306 33307 33308
(B)(1) In accordance with section 3709.20 or 3709.21 of the	33309

Revised Code, as applicable, and subject to review by and approval 33310
of the director under division (C) of section 3718.05 of the 33311
Revised Code, a board of health may adopt rules necessary for the 33312
public health providing for more stringent standards than those 33313
established in rules ~~of the public health council~~ adopted by the 33314
director under division (A) of this section. In proposing or 33315
adopting the rules, a board of health shall consider and document 33316
the economic impact of the rules on property owners within the 33317
applicable health district. 33318

(2) A board that intends to adopt rules shall notify the 33319
department of health of the proposed rules and submit a copy of 33320
the proposed rules and the documentation of the economic impact of 33321
the rules at least ninety days prior to the proposed date of 33322
adoption. The director shall approve or disapprove any such 33323
proposed rule within ninety days after receiving a copy of the 33324
proposed rule from the board of health. 33325

(3) In reviewing a proposed rule, the director shall approve 33326
the rule if all of the following apply: 33327

(a) The proposed rule is not in conflict with this chapter or 33328
rules adopted under it. 33329

(b) The proposed rule is authorized by division (B) of this 33330
section. 33331

(c) The proposed rule is no less stringent than rules adopted 33332
by the ~~public health council~~ director. 33333

(d) Unless otherwise authorized by this chapter or rules 33334
adopted under it, the proposed rule does not require design 33335
changes to a sewage treatment system, or component thereof, that 33336
differ from a design authorized in rules adopted under division 33337
(A) of this section, including rules adopted under division (A)(1) 33338
or (A)(3)(a)(iii) or (iv) of this section, or approved by the 33339
director under section 3718.04 of the Revised Code. 33340

(e) The proposed rule does not require operation or 33341
maintenance procedures for a sewage treatment system that conflict 33342
with operation or maintenance procedures authorized in rules 33343
adopted under division (A) of this section, including rules 33344
adopted under division (A)(1) or (A)(3)(a)(iii) or (iv) of this 33345
section, or approved by the director under section 3718.04 of the 33346
Revised Code. 33347

(4) If a board of health fails to submit a proposed rule to 33348
the director or fails to demonstrate that the board has considered 33349
the economic impact of the proposed rule, the rule shall have no 33350
force or effect and is not enforceable. 33351

Sec. 3718.021. (A) A board of health may regulate the siting, 33352
design, installation, operation, monitoring, maintenance, and 33353
abandonment of small flow on-site sewage treatment systems in 33354
accordance with rules adopted by the ~~public~~ director of health 33355
~~council~~ under division (A)(13) of section 3718.02 of the Revised 33356
Code. If a board of health chooses to regulate small flow on-site 33357
sewage treatment systems, the board first shall send written 33358
notification to the director of health and the director of 33359
environmental protection. 33360

(B) If a board of health chooses to regulate small flow 33361
on-site sewage treatment systems under division (A) of this 33362
section and later determines that it no longer wants to regulate 33363
those systems, the board shall notify the director of health and 33364
the director of environmental protection. Upon the receipt of the 33365
notification by the director of environmental protection, the 33366
board of health shall cease regulating small flow on-site sewage 33367
treatment systems, and the environmental protection agency shall 33368
regulate those systems. 33369

(C) If after a survey conducted under section 3718.07 of the 33370
Revised Code the director of health finds that a board of health 33371

that has chosen to regulate small flow on-site sewage treatment 33372
systems is not complying with the rules adopted under division 33373
(A)(13) of section 3718.02 of the Revised Code, the director shall 33374
notify the director of environmental protection and the board of 33375
health. Upon receipt of the notification, the board shall cease 33376
regulating small flow on-site sewage treatment systems, and the 33377
environmental protection agency shall regulate those systems. 33378

Sec. 3718.022. Notwithstanding any provision in this chapter 33379
to the contrary, in adopting rules under division (A) of section 33380
3718.02 of the Revised Code, the ~~public~~ director of health council 33381
shall consider the economic impact of the rules on property 33382
owners, the state of available technology, and the nature and 33383
economics of the available ~~alteratives~~ alternatives. 33384

Sec. 3718.05. The director of health shall do all of the 33385
following: 33386

(A) Administer and enforce this chapter and the rules ~~of the~~ 33387
~~public health council~~ adopted under it; 33388

(B) Examine records of boards of health, in accordance with 33389
rules adopted by the ~~council~~ director, that are determined 33390
necessary to ascertain compliance with this chapter and rules 33391
adopted under it; 33392

(C) Review and approve or disapprove rules proposed by boards 33393
of health under division (B) of section 3718.02 of the Revised 33394
Code. The director shall not disapprove a proposed rule unless the 33395
director determines that the proposed rule conflicts with this 33396
chapter or rules adopted under division (A) of section 3718.02 of 33397
the Revised Code ~~by the public health council~~ or fails to promote 33398
public health or environmental protection. If the director 33399
disapproves a proposed rule, the director shall provide a written 33400
explanation of the director's disapproval to the board of health 33401

that proposed the rule. 33402

(D) Survey boards of health as required by section 3718.07 of 33403
the Revised Code; 33404

(E) Develop with the sewage treatment system technical 33405
advisory committee standards, guidelines, and protocols for use by 33406
the director in approving or disapproving a sewage treatment 33407
system under section 3718.04 of the Revised Code and an 33408
application form for use by applicants for that approval, 33409
including identification of the information that must be included 33410
with the form; 33411

(F) Provide instructions on the operation and maintenance of 33412
a sewage treatment system. The director shall provide the 33413
operation and maintenance instructions on the department of 33414
health's web site. In addition, the director shall provide a copy 33415
of the operation and maintenance instructions when the director 33416
receives a written request for the instructions. 33417

(G) Develop educational programs, in conjunction with boards 33418
of health, to educate owners of sewage treatment systems regarding 33419
the proper operation and maintenance of those systems. 33420

Sec. 3718.06. (A)~~(1)~~ A board of health shall establish fees 33421
in accordance with section 3709.09 of the Revised Code for the 33422
purpose of carrying out its duties under this chapter and rules 33423
adopted under it, including fees for installation permits, 33424
operation permits, and alteration permits issued by the board. All 33425
fees so established and collected by the board shall be deposited 33426
in a special fund of the district to be used exclusively by the 33427
board in carrying out those duties. 33428

~~(2)~~(B) In accordance with Chapter 119. of the Revised Code, 33429
the public director of health ~~council~~ may establish by rule a fee 33430
to be collected from applicants for installation permits and 33431

alteration permits issued under rules adopted under this chapter. 33432
The director of health shall use not more than seventy-five per 33433
cent of the proceeds from that fee for administering and enforcing 33434
this chapter and the rules adopted under it by the ~~council~~ 33435
director. The director shall use not less than twenty-five per 33436
cent of the proceeds from that fee to establish a program in 33437
cooperation with boards of health to fund installation and 33438
evaluation of sewage treatment system new technology pilot 33439
projects through grants or other agreements. In the selection of 33440
pilot projects, the director shall consult with the sewage 33441
treatment system technical advisory committee. A board of health 33442
shall collect and transmit the fee to the director pursuant to 33443
section 3709.092 of the Revised Code. 33444

~~(B) The director may submit recommendations to the public 33445
health council regarding the amount of the fee collected under 33446
division (A)(2) of this section for installation and alteration 33447
permits. When making the recommendations, the director shall 33448
submit a report stating the current and projected expenses of 33449
administering and enforcing this chapter and the rules adopted 33450
under it and of the sewage treatment system new technology pilot 33451
projects program established under this section and the total of 33452
all money that has been deposited to the credit of the general 33453
operations fund under division (A)(2) of this section. The 33454
director may include in the report any recommendations for 33455
modifying the requirements established under this chapter and the 33456
rules adopted under it by the council. 33457~~

Sec. 3718.07. The director of health shall survey each city 33459
and general health district at least once every three years to 33460
determine whether there is substantial compliance with the 33461
requirements of this chapter pertaining to health districts and 33462
the applicable rules adopted by the ~~public health council~~ director 33463
under this chapter. Upon determining that there is substantial 33464

compliance, the director shall place the district on an approved 33465
list. The director may resurvey an approved district if it is 33466
determined by the director to be necessary and may remove from the 33467
list a district that is found not to be substantially complying 33468
with the requirements of this chapter pertaining to health 33469
districts and the applicable rules. 33470

If the director determines that a district is not eligible to 33471
be placed on the approved list or to continue on the list after a 33472
resurvey, the director shall certify that determination to the 33473
board of health, and the director shall carry out the duties of 33474
the unapproved health district under this chapter and the 33475
applicable rules adopted under it within the district or shall 33476
contract with an approved health district to conduct those duties 33477
until the unapproved district is placed on or returned to the 33478
approved list. The director or the contracting district shall have 33479
within the unapproved district the authority to exercise powers 33480
and perform duties granted to or imposed on the board under this 33481
chapter and the applicable rules adopted under it. 33482

Until the unapproved district is placed on or returned to the 33483
approved list, the director or the contracting district shall 33484
collect all fees payable to the board of health under this chapter 33485
and all such fees previously paid to the unapproved district that 33486
have not been expended or encumbered. The director shall deposit 33487
those fees in the state treasury to the credit of a special fund, 33488
which is hereby created, to be used by the director for the 33489
purpose of carrying out the duties of the unapproved health 33490
district under this chapter and the applicable rules adopted under 33491
it. A contracting district shall deposit those fees to the credit 33492
of its fund created under section 3718.06 of the Revised Code to 33493
be used by the district for the purpose of carrying out the duties 33494
of the unapproved district under this chapter and the applicable 33495
rules adopted under it. The director or contracting district shall 33496

repay to the unapproved district any balance remaining in the 33497
applicable fund from all sources when the unapproved district is 33498
placed on or returned to the approved list by the director. 33499

If a health district is removed from the approved list under 33500
this section and the board of health of the district is regulating 33501
small flow on-site sewage treatment systems in the district under 33502
section 3718.021 of the Revised Code, the director of 33503
environmental protection shall regulate those systems in that 33504
district in accordance with division (C) of that section. 33505

Sec. 3718.09. (A) A board of health may issue, modify, 33506
suspend, or revoke enforcement orders to a registration or permit 33507
holder or other person directing the holder or person to abate a 33508
violation of this chapter, any rule adopted or order issued under 33509
it, or a condition of a registration or permit issued under it 33510
within a specified, reasonable time. If an order issued under this 33511
division is neglected or disregarded, the applicable board of 33512
health may proceed in accordance with section 3707.02 of the 33513
Revised Code. 33514

(B) The health commissioner or the commissioner's designated 33515
representative, without prior notice or hearing and in accordance 33516
with ~~the rules of~~ adopted by the public director of health 33517
~~council~~, may issue an emergency order requiring any action 33518
necessary to meet a public health emergency or to prevent or abate 33519
an imminent and substantial threat to surface water or ground 33520
water regarding domestic septage management or regarding a sewage 33521
treatment system that is being operated in a manner that does not 33522
comply with this chapter or rules adopted under it. A person to 33523
whom such an emergency order is issued immediately shall comply 33524
with the order. A person so ordered may apply to the issuer of the 33525
order for a hearing, which shall be held as soon as possible, but 33526
not later than twenty days after the issuer's receipt of the 33527

application for a hearing. 33528

Sec. 3719.06. (A)(1) A licensed health professional 33529
authorized to prescribe drugs, if acting in the course of 33530
professional practice, in accordance with the laws regulating the 33531
professional's practice, and in accordance with rules adopted by 33532
the state board of pharmacy, may, except as provided in division 33533
(A)(2) or (3) of this section, do the following: 33534

(a) Prescribe schedule II, III, IV, and V controlled 33535
substances; 33536

(b) Administer or personally furnish to patients schedule II, 33537
III, IV, and V controlled substances; 33538

(c) Cause schedule II, III, IV, and V controlled substances 33539
to be administered under the prescriber's direction and 33540
supervision. 33541

(2) A licensed health professional authorized to prescribe 33542
drugs who is a clinical nurse specialist, certified nurse-midwife, 33543
or certified nurse practitioner is subject to both of the 33544
following: 33545

(a) A schedule II controlled substance may be prescribed only 33546
in accordance with division (C) of section 4723.481 of the Revised 33547
Code. 33548

(b) No schedule II controlled substance shall be personally 33549
furnished to any patient. 33550

(3) A licensed health professional authorized to prescribe 33551
drugs who is a physician assistant ~~shall not prescribe or~~ 33552
~~personally furnish to patients any~~ is subject to all of the 33553
following: 33554

(a) A controlled substance that is not may be prescribed or 33555
personally furnished only if it is included in the 33556
physician-delegated prescriptive authority granted to the 33557

physician assistant in accordance with Chapter 4730. of the 33558
Revised Code. 33559

(b) A schedule II controlled substance may be prescribed only 33560
in accordance with division (B)(4) of section 4730.41 and section 33561
4730.411 of the Revised Code. 33562

(c) No schedule II controlled substance shall be personally 33563
furnished to any patient. 33564

(B) No licensed health professional authorized to prescribe 33565
drugs shall prescribe, administer, or personally furnish a 33566
schedule III anabolic steroid for the purpose of human muscle 33567
building or enhancing human athletic performance and no pharmacist 33568
shall dispense a schedule III anabolic steroid for either purpose, 33569
unless it has been approved for that purpose under the "Federal 33570
Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 33571
301, as amended. 33572

(C) Each written prescription shall be properly executed, 33573
dated, and signed by the prescriber on the day when issued and 33574
shall bear the full name and address of the person for whom, or 33575
the owner of the animal for which, the controlled substance is 33576
prescribed and the full name, address, and registry number under 33577
the federal drug abuse control laws of the prescriber. If the 33578
prescription is for an animal, it shall state the species of the 33579
animal for which the controlled substance is prescribed. 33580

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 33581
3721.99 of the Revised Code: 33582

(1)(a) "Home" means an institution, residence, or facility 33583
that provides, for a period of more than twenty-four hours, 33584
whether for a consideration or not, accommodations to three or 33585
more unrelated individuals who are dependent upon the services of 33586
others, including a nursing home, residential care facility, home 33587

for the aging, and a veterans' home operated under Chapter 5907. 33588
of the Revised Code. 33589

(b) "Home" also means both of the following: 33590

(i) Any facility that a person, as defined in section 3702.51 33591
of the Revised Code, proposes for certification as a skilled 33592
nursing facility or nursing facility under Title XVIII or XIX of 33593
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 33594
as amended, and for which a certificate of need, other than a 33595
certificate to recategorize hospital beds as described in section 33596
~~3702.522~~ 3702.521 of the Revised Code or division (R)(7)(d) of the 33597
version of section 3702.51 of the Revised Code in effect 33598
immediately prior to April 20, 1995, has been granted to the 33599
person under sections 3702.51 to 3702.62 of the Revised Code after 33600
August 5, 1989; 33601

(ii) A county home or district home that is or has been 33602
licensed as a residential care facility. 33603

(c) "Home" does not mean any of the following: 33604

(i) Except as provided in division (A)(1)(b) of this section, 33605
a public hospital or hospital as defined in section 3701.01 or 33606
5122.01 of the Revised Code; 33607

(ii) A residential facility ~~for mentally ill persons~~ as 33608
defined ~~under~~ in section 5119.22 of the Revised Code; 33609

(iii) A residential facility as defined in section 5123.19 of 33610
the Revised Code; 33611

(iv) ~~An adult care facility as defined in section 5119.70 of~~ 33612
~~the Revised Code;~~ 33613

~~(v)~~ An alcohol or drug addiction program as defined in 33614
section 3793.01 of the Revised Code; 33615

~~(vi)~~ (v) A facility licensed to provide methadone treatment 33616
under section 3793.11 of the Revised Code; 33617

~~(vii)~~(vi) A facility providing services under contract with the department of developmental disabilities under section 5123.18 of the Revised Code ~~unless section 5123.192 of the Revised Code makes the facility subject to the requirements of this chapter;~~

~~(viii)~~(vii) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;

~~(ix)~~(viii) A facility, infirmary, or other entity that is operated by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and does not participate in the medicare program established under Title XVIII of the "Social Security Act" or the medical assistance program established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," if on January 1, 1994, the facility, infirmary, or entity was providing care exclusively to members of the religious order;

~~(x)~~(ix) A county home or district home that has never been licensed as a residential care facility.

(2) "Unrelated individual" means one who is not related to the owner or operator of a home or to the spouse of the owner or operator as a parent, grandparent, child, grandchild, brother, sister, niece, nephew, aunt, uncle, or as the child of an aunt or uncle.

(3) "Mental impairment" does not mean mental illness as defined in section 5122.01 of the Revised Code or mental retardation as defined in section 5123.01 of the Revised Code.

(4) "Skilled nursing care" means procedures that require technical skills and knowledge beyond those the untrained person possesses and that are commonly employed in providing for the physical, mental, and emotional needs of the ill or otherwise

incapacitated. "Skilled nursing care" includes, but is not limited to, the following: 33649
33650

(a) Irrigations, catheterizations, application of dressings, and supervision of special diets; 33651
33652

(b) Objective observation of changes in the patient's condition as a means of analyzing and determining the nursing care required and the need for further medical diagnosis and treatment; 33653
33654
33655

(c) Special procedures contributing to rehabilitation; 33656

(d) Administration of medication by any method ordered by a physician, such as hypodermically, rectally, or orally, including observation of the patient after receipt of the medication; 33657
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33659

(e) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration. 33660
33661
33662

(5)(a) "Personal care services" means services including, but not limited to, the following: 33663
33664

(i) Assisting residents with activities of daily living; 33665

(ii) Assisting residents with self-administration of medication, in accordance with rules adopted under section 3721.04 of the Revised Code; 33666
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(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under section 3721.04 of the Revised Code. 33669
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(b) "Personal care services" does not include "skilled nursing care" as defined in division (A)(4) of this section. A facility need not provide more than one of the services listed in division (A)(5)(a) of this section to be considered to be providing personal care services. 33673
33674
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(6) "Nursing home" means a home used for the reception and 33678

care of individuals who by reason of illness or physical or mental 33679
impairment require skilled nursing care and of individuals who 33680
require personal care services but not skilled nursing care. A 33681
nursing home is licensed to provide personal care services and 33682
skilled nursing care. 33683

(7) "Residential care facility" means a home that provides 33684
either of the following: 33685

(a) Accommodations for seventeen or more unrelated 33686
individuals and supervision and personal care services for three 33687
or more of those individuals who are dependent on the services of 33688
others by reason of age or physical or mental impairment; 33689

(b) Accommodations for three or more unrelated individuals, 33690
supervision and personal care services for at least three of those 33691
individuals who are dependent on the services of others by reason 33692
of age or physical or mental impairment, and, to at least one of 33693
those individuals, any of the skilled nursing care authorized by 33694
section 3721.011 of the Revised Code. 33695

(8) "Home for the aging" means a home that provides services 33696
as a residential care facility and a nursing home, except that the 33697
home provides its services only to individuals who are dependent 33698
on the services of others by reason of both age and physical or 33699
mental impairment. 33700

The part or unit of a home for the aging that provides 33701
services only as a residential care facility is licensed as a 33702
residential care facility. The part or unit that may provide 33703
skilled nursing care beyond the extent authorized by section 33704
3721.011 of the Revised Code is licensed as a nursing home. 33705

(9) "County home" and "district home" mean a county home or 33706
district home operated under Chapter 5155. of the Revised Code. 33707

(B) The ~~public~~ director of health council may further 33708
classify homes. For the purposes of this chapter, any residence, 33709

institution, hotel, congregate housing project, or similar 33710
facility that meets the definition of a home under this section is 33711
such a home regardless of how the facility holds itself out to the 33712
public. 33713

(C) For purposes of this chapter, personal care services or 33714
skilled nursing care shall be considered to be provided by a 33715
facility if they are provided by a person employed by or 33716
associated with the facility or by another person pursuant to an 33717
agreement to which neither the resident who receives the services 33718
nor the resident's sponsor is a party. 33719

(D) Nothing in division (A)(4) of this section shall be 33720
construed to permit skilled nursing care to be imposed on an 33721
individual who does not require skilled nursing care. 33722

Nothing in division (A)(5) of this section shall be construed 33723
to permit personal care services to be imposed on an individual 33724
who is capable of performing the activity in question without 33725
assistance. 33726

(E) Division (A)(1)(c)~~(ix)~~(viii) of this section does not 33727
prohibit a facility, infirmary, or other entity described in that 33728
division from seeking licensure under sections 3721.01 to 3721.09 33729
of the Revised Code or certification under Title XVIII or XIX of 33730
the "Social Security Act." However, such a facility, infirmary, or 33731
entity that applies for licensure or certification must meet the 33732
requirements of those sections or titles and the rules adopted 33733
under them and obtain a certificate of need from the director of 33734
health under section 3702.52 of the Revised Code. 33735

(F) Nothing in this chapter, or rules adopted pursuant to it, 33736
shall be construed as authorizing the supervision, regulation, or 33737
control of the spiritual care or treatment of residents or 33738
patients in any home who rely upon treatment by prayer or 33739
spiritual means in accordance with the creed or tenets of any 33740

recognized church or religious denomination. 33741

Sec. 3721.011. (A) In addition to providing accommodations, 33742
supervision, and personal care services to its residents, a 33743
residential care facility may do the following: 33744

(1) Provide the following skilled nursing care to its 33745
residents: 33746

(a) Supervision of special diets; 33747

(b) Application of dressings, in accordance with rules 33748
adopted under section 3721.04 of the Revised Code; 33749

(c) Subject to division (B)(1) of this section, 33750
administration of medication. 33751

(2) Subject to division (C) of this section, provide other 33752
skilled nursing care on a part-time, intermittent basis for not 33753
more than a total of one hundred twenty days in a twelve-month 33754
period; 33755

(3) Provide skilled nursing care for more than one hundred 33756
twenty days in a twelve-month period to a resident when the 33757
requirements of division (D) of this section are met. 33758

A residential care facility may not admit or retain an 33759
individual requiring skilled nursing care that is not authorized 33760
by this section. A residential care facility may not provide 33761
skilled nursing care beyond the limits established by this 33762
section. 33763

(B)(1) A residential care facility may admit or retain an 33764
individual requiring medication, including biologicals, only if 33765
the individual's personal physician has determined in writing that 33766
the individual is capable of self-administering the medication or 33767
the facility provides for the medication to be administered to the 33768
individual by a home health agency certified under Title XVIII of 33769
the "Social Security Act," 79 Stat. 620 (1965), 42 U.S.C. 1395, as 33770

amended; a hospice care program licensed under Chapter 3712. of 33771
the Revised Code; or a member of the staff of the residential care 33772
facility who is qualified to perform medication administration. 33773
Medication may be administered in a residential care facility only 33774
by the following persons authorized by law to administer 33775
medication: 33776

(a) A registered nurse licensed under Chapter 4723. of the 33777
Revised Code; 33778

(b) A licensed practical nurse licensed under Chapter 4723. 33779
of the Revised Code who holds proof of successful completion of a 33780
course in medication administration approved by the board of 33781
nursing and who administers the medication only at the direction 33782
of a registered nurse or a physician authorized under Chapter 33783
4731. of the Revised Code to practice medicine and surgery or 33784
osteopathic medicine and surgery; 33785

(c) A medication aide certified under Chapter 4723. of the 33786
Revised Code; 33787

(d) A physician authorized under Chapter 4731. of the Revised 33788
Code to practice medicine and surgery or osteopathic medicine and 33789
surgery. 33790

(2) In assisting a resident with self-administration of 33791
medication, any member of the staff of a residential care facility 33792
may do the following: 33793

(a) Remind a resident when to take medication and watch to 33794
ensure that the resident follows the directions on the container; 33795

(b) Assist a resident by taking the medication from the 33796
locked area where it is stored, in accordance with rules adopted 33797
pursuant to section 3721.04 of the Revised Code, and handing it to 33798
the resident. If the resident is physically unable to open the 33799
container, a staff member may open the container for the resident. 33800

(c) Assist a physically impaired but mentally alert resident, 33801
such as a resident with arthritis, cerebral palsy, or Parkinson's 33802
disease, in removing oral or topical medication from containers 33803
and in consuming or applying the medication, upon request by or 33804
with the consent of the resident. If a resident is physically 33805
unable to place a dose of medicine to the resident's mouth without 33806
spilling it, a staff member may place the dose in a container and 33807
place the container to the mouth of the resident. 33808

(C) Except as provided in division (D) of this section, a 33809
residential care facility may admit or retain individuals who 33810
require skilled nursing care beyond the supervision of special 33811
diets, application of dressings, or administration of medication, 33812
only if the care will be provided on a part-time, intermittent 33813
basis for not more than a total of one hundred twenty days in any 33814
twelve-month period. In accordance with Chapter 119. of the 33815
Revised Code, the ~~public director of health council~~ shall adopt 33816
rules specifying what constitutes the need for skilled nursing 33817
care on a part-time, intermittent basis. The ~~council~~ director 33818
shall adopt rules that are consistent with rules pertaining to 33819
home health care adopted by the director of job and family 33820
services for the medicaid program established under Chapter 5111. 33821
of the Revised Code. Skilled nursing care provided pursuant to 33822
this division may be provided by a home health agency certified 33823
under Title XVIII of the "Social Security Act," a hospice care 33824
program licensed under Chapter 3712. of the Revised Code, or a 33825
member of the staff of a residential care facility who is 33826
qualified to perform skilled nursing care. 33827

A residential care facility that provides skilled nursing 33828
care pursuant to this division shall do both of the following: 33829

(1) Evaluate each resident receiving the skilled nursing care 33830
at least once every seven days to determine whether the resident 33831
should be transferred to a nursing home; 33832

(2) Meet the skilled nursing care needs of each resident receiving the care. 33833
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(D)(1) A residential care facility may admit or retain an individual who requires skilled nursing care for more than one hundred twenty days in any twelve-month period only if the facility has entered into a written agreement with each of the following: 33835
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(a) The individual or individual's sponsor; 33840

(b) The individual's personal physician; 33841

(c) Unless the individual's personal physician oversees the skilled nursing care, the provider of the skilled nursing care; 33842
33843

(d) If the individual is a hospice patient as defined in section 3712.01 of the Revised Code, a hospice care program licensed under Chapter 3712. of the Revised Code. 33844
33845
33846

(2) The agreement required by division (D)(1) of this section shall include all of the following provisions: 33847
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(a) That the individual will be provided skilled nursing care in the facility only if a determination has been made that the individual's needs can be met at the facility; 33849
33850
33851

(b) That the individual will be retained in the facility only if periodic redeterminations are made that the individual's needs are being met at the facility; 33852
33853
33854

(c) That the redeterminations will be made according to a schedule specified in the agreement; 33855
33856

(d) If the individual is a hospice patient, that the individual has been given an opportunity to choose the hospice care program that best meets the individual's needs; 33857
33858
33859

(e) Unless the individual is a hospice patient, that the individual's personal physician has determined that the skilled nursing care the individual needs is routine. 33860
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(E) Notwithstanding any other provision of this chapter, a residential care facility in which residents receive skilled nursing care pursuant to this section is not a nursing home.

Sec. 3721.02. (A) As used in this section, "residential facility" means a residential facility licensed under section 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults.

(B) The director of health shall license homes and establish procedures to be followed in inspecting and licensing homes. The director may inspect a home at any time. Each home shall be inspected by the director at least once prior to the issuance of a license and at least once every fifteen months thereafter. The state fire marshal or a township, municipal, or other legally constituted fire department approved by the marshal shall also inspect a home prior to issuance of a license, at least once every fifteen months thereafter, and at any other time requested by the director. A home does not have to be inspected prior to issuance of a license by the director, state fire marshal, or a fire department if ownership of the home is assigned or transferred to a different person and the home was licensed under this chapter immediately prior to the assignment or transfer. The director may enter at any time, for the purposes of investigation, any institution, residence, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is operating as a nursing home, residential care facility, or home for the aging without a valid license required by section 3721.05 of the Revised Code or, in the case of a county home or district home, is operating despite the revocation of its residential care facility license. The director may delegate the director's authority and duties under this chapter to any division, bureau, agency, or official of the department of health.

~~(B)~~(C) A single facility may be licensed both as a nursing 33895
home pursuant to this chapter and as ~~an adult care~~ a residential 33896
facility pursuant to ~~Chapter 5119.~~ section 5119.22 of the Revised 33897
Code if the director determines that the part or unit to be 33898
licensed as a nursing home can be maintained separate and discrete 33899
from the part or unit to be licensed as ~~an adult care~~ a 33900
residential facility. 33901

~~(C)~~(D) In determining the number of residents in a home for 33902
the purpose of licensing, the director shall consider all the 33903
individuals for whom the home provides accommodations as one group 33904
unless one of the following is the case: 33905

(1) The home is a home for the aging, in which case all the 33906
individuals in the part or unit licensed as a nursing home shall 33907
be considered as one group, and all the individuals in the part or 33908
unit licensed as a rest home shall be considered as another group. 33909

(2) The home is both a nursing home and ~~an adult care~~ a 33910
residential facility. In that case, all the individuals in the 33911
part or unit licensed as a nursing home shall be considered as one 33912
group, and all the individuals in the part or unit licensed as an 33913
adult care facility shall be considered as another group. 33914

(3) The home maintains, in addition to a nursing home or 33915
residential care facility, a separate and discrete part or unit 33916
that provides accommodations to individuals who do not require or 33917
receive skilled nursing care and do not receive personal care 33918
services from the home, in which case the individuals in the 33919
separate and discrete part or unit shall not be considered in 33920
determining the number of residents in the home if the separate 33921
and discrete part or unit is in compliance with the Ohio basic 33922
building code established by the board of building standards under 33923
Chapters 3781. and 3791. of the Revised Code and the home permits 33924
the director, on request, to inspect the separate and discrete 33925
part or unit and speak with the individuals residing there, if 33926

they consent, to determine whether the separate and discrete part 33927
or unit meets the requirements of this division. 33928

~~(D)~~(E)(1) The director of health shall charge the following 33929
application fee and annual renewal licensing and inspection fee 33930
for each fifty persons or part thereof of a home's licensed 33931
capacity: 33932

(a) For state fiscal year 2010, two hundred twenty dollars; 33933

(b) For state fiscal year 2011, two hundred seventy dollars; 33934

(c) For each state fiscal year thereafter, three hundred 33935
twenty dollars. 33936

(2) All fees collected by the director for the issuance or 33937
renewal of licenses shall be deposited into the state treasury to 33938
the credit of the general operations fund created in section 33939
3701.83 of the Revised Code for use only in administering and 33940
enforcing this chapter and rules adopted under it. 33941

~~(E)~~(F)(1) Except as otherwise provided in this section, the 33942
results of an inspection or investigation of a home that is 33943
conducted under this section, including any statement of 33944
deficiencies and all findings and deficiencies cited in the 33945
statement on the basis of the inspection or investigation, shall 33946
be used solely to determine the home's compliance with this 33947
chapter or another chapter of the Revised Code in any action or 33948
proceeding other than an action commenced under division (I) of 33949
section 3721.17 of the Revised Code. Those results of an 33950
inspection or investigation, that statement of deficiencies, and 33951
the findings and deficiencies cited in that statement shall not be 33952
used in any court or in any action or proceeding that is pending 33953
in any court and are not admissible in evidence in any action or 33954
proceeding unless that action or proceeding is an appeal of an 33955
action by the department of health under this chapter or is an 33956
action by any department or agency of the state to enforce this 33957

chapter or another chapter of the Revised Code. 33958

(2) Nothing in division (E)(1) of this section prohibits the 33959
results of an inspection or investigation conducted under this 33960
section from being used in a criminal investigation or 33961
prosecution. 33962

Sec. 3721.03. (A) As used in this section, "person" has the 33963
same meaning as in section 1.59 of the Revised Code. 33964

(B) The director of health shall enforce the provisions of 33965
sections 3721.01 to 3721.13 and 3721.99 of the Revised Code and 33966
may issue orders to secure compliance with the provisions of these 33967
sections and the rules adopted under them. The director may hold 33968
hearings, issue subpoenas, compel testimony, and make 33969
adjudications. 33970

The director may issue an order revoking a license in the 33971
event the director finds, upon hearing or opportunity afforded 33972
pursuant to Chapter 119. of the Revised Code, that any of the 33973
following apply to a person, county home, or district home 33974
licensed under section 3721.07 of the Revised Code: 33975

(1) Has violated any of the provisions of Chapter 3721. of 33976
the Revised Code or rules adopted by the ~~public health council~~ 33977
director under it; 33978

(2) Has violated any order issued by the director; 33979

(3) Is not, or any of its principals are not suitable, 33980
morally or financially to operate such an institution; 33981

(4) Is not furnishing humane, kind, and adequate treatment 33982
and care; 33983

(5) Has had a long-standing pattern of violations of this 33984
chapter or the rules adopted under it that has caused physical, 33985
emotional, mental, or psychosocial harm to one or more residents. 33986

Upon the issuance of any order of revocation, the person 33987
whose license is revoked, or the county home or district home that 33988
has its license revoked, may appeal in accordance with Chapter 33989
119. of the Revised Code. 33990

(C) Once the director notifies a person, county home, or 33991
district home licensed to operate a home that the license may be 33992
revoked or issues any order under this section, the person, county 33993
home, or district home shall not assign or transfer to another 33994
person or entity the right to operate the home. This prohibition 33995
shall remain in effect until proceedings under Chapter 119. of the 33996
Revised Code concerning the order or license revocation have been 33997
concluded or the director notifies the person, county home, or 33998
district home that the prohibition has been lifted. 33999

If a license is revoked under this section, the former 34000
license holder shall not assign or transfer or consent to 34001
assignment or transfer of the right to operate the home. Any 34002
attempted assignment or transfer to another person or entity is 34003
void. 34004

On revocation of a license, the former licensee shall take 34005
all necessary steps to cease operation of the home. 34006

The director of health shall not accept a certificate of need 34007
application under section 3702.52 of the Revised Code regarding a 34008
home if the license to operate the home has been revoked under 34009
this section. 34010

Sec. 3721.032. The state fire marshal shall enforce all 34011
statutes and rules pertaining to fire safety in homes and shall 34012
adopt rules pertaining to fire safety in homes as the marshal 34013
determines necessary. The rules adopted by the marshal shall be in 34014
addition to those fire safety rules that the board of building 34015
standards and the ~~public~~ director of health ~~council~~ are empowered 34016
to adopt. In the event of a dispute between the marshal and 34017

another officer having responsibilities under sections 3721.01 to 34018
3721.09 of the Revised Code with respect to the interpretation or 34019
application of a specific fire safety statute or rule, the 34020
interpretation of the marshal shall prevail. 34021

Sec. 3721.04. (A) The ~~public~~ director of health council shall 34022
adopt and publish rules governing the operation of homes, which 34023
shall have uniform application throughout the state, and shall 34024
prescribe standards for homes with respect to, but not limited to, 34025
the following matters: 34026

(1) The minimum space requirements for occupants and 34027
equipping of the buildings in which homes are housed so as to 34028
ensure healthful, safe, sanitary, and comfortable conditions for 34029
all residents, so long as they are not inconsistent with Chapters 34030
3781. and 3791. of the Revised Code or with any rules adopted by 34031
the board of building standards and by the state fire marshal; 34032

(2) The number and qualifications of personnel, including 34033
management and nursing staff, for each class of home, and the 34034
qualifications of nurse aides, as defined in section 3721.21 of 34035
the Revised Code, used by long-term care facilities, as defined in 34036
that section; 34037

(3) The medical, rehabilitative, and recreational services to 34038
be provided by each class of home; 34039

(4) Dietetic services, including but not limited to 34040
sanitation, nutritional adequacy, and palatability of food; 34041

(5) The personal and social services to be provided by each 34042
class of home; 34043

(6) The business and accounting practices to be followed and 34044
the type of patient and business records to be kept by such homes; 34045

(7) The operation of adult day-care programs provided by and 34046

on the same site as homes licensed under this chapter; 34047

(8) The standards and procedures to be followed by 34048
residential care facilities in admitting and retaining a resident 34049
who requires the application of dressings, including requirements 34050
for charting and evaluating on a weekly basis; 34051

(9) The requirements for conducting weekly evaluations of 34052
residents receiving skilled nursing care in residential care 34053
facilities. 34054

(B) The ~~public health council~~ director may adopt whatever 34055
additional rules are necessary to carry out or enforce the 34056
provisions of sections 3721.01 to 3721.09 and 3721.99 of the 34057
Revised Code. 34058

(C) The following apply to the ~~public health council~~ director 34059
when adopting rules under division (A)(1) of this section 34060
regarding the equipping of the buildings in which homes are 34061
housed: 34062

(1) The rules shall not require that each resident sleeping 34063
room, or a percentage of the resident sleeping rooms, have a 34064
bathtub or shower that is directly accessible from or exclusively 34065
for the room. 34066

(2) The rules shall require that the privacy and dignity of 34067
residents be protected when the residents are transported to and 34068
from bathing facilities, prepare for bathing, and bathe. 34069

(D) The following apply to the ~~public health council~~ director 34070
when adopting rules under division (A)(2) of this section 34071
regarding the number and qualifications of personnel in homes: 34072

(1) When adopting rules applicable to residential care 34073
facilities, the ~~public health council~~ director shall take into 34074
consideration the effect that the following may have on the number 34075
of personnel needed: 34076

(a) Provision of personal care services;	34077
(b) Provision of part-time, intermittent skilled nursing care pursuant to division (C) of section 3721.011 of the Revised Code;	34078 34079
(c) Provision of skilled nursing care to residents pursuant to division (D) of section 3721.011 of the Revised Code.	34080 34081
(2) When adopting rules applicable to nursing homes, the public health council <u>director</u> shall require each nursing home to do both of the following:	34082 34083 34084
(a) Have sufficient direct care staff on each shift to meet the needs of the residents in an appropriate and timely manner;	34085 34086
(b) Have the following individuals provide a minimum daily average of two and one-half hours of direct care per resident:	34087 34088
(i) Registered nurses, including registered nurses who perform administrative and supervisory duties;	34089 34090
(ii) Licensed practical nurses, including licensed practical nurses who perform administrative and supervisory duties;	34091 34092
(iii) Nurse aides.	34093
(3) The rules prescribing qualifications of nurse aides used by long-term care facilities, as those terms are defined in section 3721.21 of the Revised Code, shall be no less stringent than the requirements, guidelines, and procedures established by the United States secretary of health and human services under sections <u>section</u> 1819 and 1919 of the "Social Security Act," 49 101 Stat. 620 <u>1330-160</u> (1935 1987), 42 U.S.C. 301 <u>1395i-3</u> , as amended, <u>and section 1919 of the "Social Security Act," 101 Stat. 1330-182 (1987), 42 U.S.C. 1396r, as amended.</u>	34094 34095 34096 34097 34098 34099 34100 34101 34102
<u>(E) The following apply to the director when adopting rules under division (A)(2) of this section regarding the number and qualifications of personnel in nursing homes or rules under division (A)(5) of this section regarding social services to be</u>	34103 34104 34105 34106

provided by nursing homes: 34107

(1) The rules shall not prescribe the number of individuals licensed as social workers under Chapter 4757. of the Revised Code that a nursing home with one hundred twenty or fewer beds must employ. 34108
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(2) The rules shall require each nursing home with more than one hundred twenty beds to employ on a full-time basis one individual licensed as a social worker under Chapter 4757. of the Revised Code. 34112
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(3) The rules shall require each nursing home to offer its residents medically related social services that assist the residents in attaining or maintaining their highest practicable physical, mental, and psychosocial well-being. 34116
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Sec. 3721.07. Every person desiring to operate a home and the superintendent or administrator of each county home or district home for which a license as a residential care facility is sought shall apply for a license to the director of health. The director shall issue a license for the home, if after investigation of the applicant and, if required by section 3721.02 of the Revised Code, inspection of the home, the following requirements or conditions are satisfied or complied with: 34120
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(A) The applicant has not been convicted of a felony or a crime involving moral turpitude; 34128
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(B) The applicant is not violating any of the rules ~~made~~ adopted by the ~~public director of health council~~ or any order issued by the director ~~of health~~; 34130
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(C) The applicant has not had a license to operate the home revoked pursuant to section 3721.03 of the Revised Code because of any act or omission that jeopardized a resident's health, welfare, or safety nor has the applicant had a long-standing pattern of 34133
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violations of this chapter or rules adopted under it that caused 34137
physical, emotional, mental, or psychosocial harm to one or more 34138
residents. 34139

(D) The buildings in which the home is housed have been 34140
approved by the state fire marshal or a township, municipal, or 34141
other legally constituted fire department approved by the marshal. 34142
In the approval of a home such agencies shall apply standards 34143
prescribed by the board of building standards, and by the state 34144
fire marshal, and by section 3721.071 of the Revised Code. 34145

(E) The applicant, if it is an individual, or the principal 34146
participants, if it is an association or a corporation, is or are 34147
suitable financially and morally to operate a home; 34148

(F) The applicant is equipped to furnish humane, kind, and 34149
adequate treatment and care; 34150

(G) The home does not maintain or contain: 34151

(1) Facilities for the performance of major surgical 34152
procedures; 34153

(2) Facilities for providing therapeutic radiation; 34154

(3) An emergency ward; 34155

(4) A clinical laboratory unless it is under the supervision 34156
of a clinical pathologist who is a licensed physician in this 34157
state; 34158

(5) Facilities for radiological examinations unless such 34159
examinations are performed only by a person licensed to practice 34160
medicine, surgery, or dentistry in this state. 34161

(H) The home does not accept or treat outpatients, except 34162
upon the written orders of a physician licensed in this state, 34163
maternity cases, boarding children, and does not house transient 34164
guests, other than participants in an adult day-care program, for 34165
twenty-four hours or less; 34166

(I) The home is in compliance with sections 3721.28 and 3721.29 of the Revised Code. 34167
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When the director issues a license, the license shall remain in effect until revoked by the director or voided at the request of the applicant; provided, there shall be an annual renewal fee payable during the month of January of each calendar year. Any licensed home that does not pay its renewal fee in January shall pay, beginning the first day of February, a late fee of one hundred dollars for each week or part thereof that the renewal fee is not paid. If either the renewal fee or the late fee is not paid by the fifteenth day of February, the director may, in accordance with Chapter 119. of the Revised Code, revoke the home's license. 34169
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If, under division (B)(5) of section 3721.03 of the Revised Code, the license of a person has been revoked or the license of a county home or district home to operate as a residential care facility has been revoked, the director of health shall not issue a license to the person or home at any time. A person whose license is revoked, and a county home or district home that has its license as a residential care facility revoked other than under division (B)(5) of section 3721.03 of the Revised Code, for any reason other than nonpayment of the license renewal fee or late fees shall not be issued a new license under this chapter until a period of one year following the date of revocation has elapsed. 34179
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Any applicant who is denied a license may appeal in accordance with Chapter 119. of the Revised Code. 34191
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Sec. 3721.071. The buildings in which a home is housed shall be equipped with both an automatic fire extinguishing system and fire alarm system. Such systems shall conform to standards set forth in the regulations of the board of building standards and the state fire marshal. 34193
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The time for compliance with the requirements imposed by this section shall be January 1, 1975, except that the date for compliance with the automatic fire extinguishing requirements is extended to January 1, 1976, provided the buildings of the home are otherwise in compliance with fire safety laws and regulations and:

(A) The home within thirty days after August 4, 1975, files a written plan with the state fire marshal's office that:

(1) Outlines the interim safety procedures which shall be carried out to reduce the possibility of a fire;

(2) Provides evidence that the home has entered into an agreement for a fire safety inspection to be conducted not less than monthly by a qualified independent safety engineer consultant or a township, municipal, or other legally constituted fire department, or by a township or municipal fire prevention officer;

(3) Provides verification that the home has entered into a valid contract for the installation of an automatic fire extinguishing system or fire alarm system, or both, as required to comply with this section;

(4) Includes a statement regarding the expected date for the completion of the fire extinguishing system or fire alarm system, or both.

(B) Inspections by a qualified independent safety engineer consultant or a township, municipal, or other legally constituted fire department, or by a township or municipal fire prevention officer are initiated no later than sixty days after August 4, 1975, and are conducted no less than monthly thereafter, and reports of the consultant, fire department, or fire prevention officer identifying existing hazards and recommended corrective actions are submitted to the state fire marshal, the division of ~~labor~~ industrial compliance in the department of commerce, and the

department of health. 34229

It is the express intent of the general assembly that the 34230
department of job and family services shall terminate payments 34231
under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 34232
42 U.S.C. 301, as amended, to those homes which do not comply with 34233
the requirements of this section for the submission of a written 34234
fire safety plan and the deadline for entering into contracts for 34235
the installation of systems. 34236

Sec. 3721.121. (A) As used in this section: 34237

(1) "Adult day-care program" means a program operated 34238
pursuant to rules adopted by the ~~public director of health council~~ 34239
under section 3721.04 of the Revised Code and provided by and on 34240
the same site as homes licensed under this chapter. 34241

(2) "Applicant" means a person who is under final 34242
consideration for employment with a home or adult day-care program 34243
in a full-time, part-time, or temporary position that involves 34244
providing direct care to an older adult. "Applicant" does not 34245
include a person who provides direct care as a volunteer without 34246
receiving or expecting to receive any form of remuneration other 34247
than reimbursement for actual expenses. 34248

(3) "Criminal records check" ~~and "older adult" have~~ has the 34249
same ~~meanings~~ meaning as in section 109.572 of the Revised Code. 34250

(4) "Home" means a home as defined in section 3721.10 of the 34251
Revised Code. 34252

(5) "Older adult" means a person age sixty or older. 34253

(B)(1) Except as provided in division (I) of this section, 34254
the chief administrator of a home or adult day-care program shall 34255
request that the superintendent of the bureau of criminal 34256
identification and investigation conduct a criminal records check 34257
~~with respect to~~ of each applicant. If an applicant for whom a 34258

criminal records check request is required under this division 34259
does not present proof of having been a resident of this state for 34260
the five-year period immediately prior to the date the criminal 34261
records check is requested or provide evidence that within that 34262
five-year period the superintendent has requested information 34263
about the applicant from the federal bureau of investigation in a 34264
criminal records check, the chief administrator shall request that 34265
the superintendent obtain information from the federal bureau of 34266
investigation as part of the criminal records check of the 34267
applicant. Even if an applicant for whom a criminal records check 34268
request is required under this division presents proof of having 34269
been a resident of this state for the five-year period, the chief 34270
administrator may request that the superintendent include 34271
information from the federal bureau of investigation in the 34272
criminal records check. 34273

(2) A person required by division (B)(1) of this section to 34274
request a criminal records check shall do both of the following: 34275

(a) Provide to each applicant for whom a criminal records 34276
check request is required under that division a copy of the form 34277
prescribed pursuant to division (C)(1) of section 109.572 of the 34278
Revised Code and a standard fingerprint impression sheet 34279
prescribed pursuant to division (C)(2) of that section, and obtain 34280
the completed form and impression sheet from the applicant; 34281

(b) Forward the completed form and impression sheet to the 34282
superintendent of the bureau of criminal identification and 34283
investigation. 34284

(3) An applicant provided the form and fingerprint impression 34285
sheet under division (B)(2)(a) of this section who fails to 34286
complete the form or provide fingerprint impressions shall not be 34287
employed in any position for which a criminal records check is 34288
required by this section. 34289

(C)(1) Except as provided in rules adopted by the director of health in accordance with division (F) of this section and subject to division (C)(2) of this section, no home or adult day-care program shall employ a person in a position that involves providing direct care to an older adult if the person has been convicted of or pleaded guilty to any of the following:

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

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

(2)(a) A home or an adult day-care program may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section prior to obtaining the results of a criminal records check regarding the individual, provided that the home or program shall request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. In the circumstances described in division (I)(2) of this section, a home or adult day-care program may employ conditionally an applicant who has been referred to the home or adult day-care program by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of older

adults and for whom, pursuant to that division, a criminal records 34322
check is not required under division (B) of this section. 34323

(b) A home or adult day-care program that employs an 34324
individual conditionally under authority of division (C)(2)(a) of 34325
this section shall terminate the individual's employment if the 34326
results of the criminal records check requested under division (B) 34327
of this section or described in division (I)(2) of this section, 34328
other than the results of any request for information from the 34329
federal bureau of investigation, are not obtained within the 34330
period ending thirty days after the date the request is made. 34331
Regardless of when the results of the criminal records check are 34332
obtained, if the results indicate that the individual has been 34333
convicted of or pleaded guilty to any of the offenses listed or 34334
described in division (C)(1) of this section, the home or program 34335
shall terminate the individual's employment unless the home or 34336
program chooses to employ the individual pursuant to division (F) 34337
of this section. Termination of employment under this division 34338
shall be considered just cause for discharge for purposes of 34339
division (D)(2) of section 4141.29 of the Revised Code if the 34340
individual makes any attempt to deceive the home or program about 34341
the individual's criminal record. 34342

(D)(1) Each home or adult day-care program shall pay to the 34343
bureau of criminal identification and investigation the fee 34344
prescribed pursuant to division (C)(3) of section 109.572 of the 34345
Revised Code for each criminal records check conducted pursuant to 34346
a request made under division (B) of this section. 34347

(2) A home or adult day-care program may charge an applicant 34348
a fee not exceeding the amount the home or program pays under 34349
division (D)(1) of this section. A home or program may collect a 34350
fee only if both of the following apply: 34351

(a) The home or program notifies the person at the time of 34352
initial application for employment of the amount of the fee and 34353

that, unless the fee is paid, the person will not be considered 34354
for employment; 34355

(b) The medical assistance program established under Chapter 34356
5111. of the Revised Code does not reimburse the home or program 34357
the fee it pays under division (D)(1) of this section. 34358

(E) The report of any criminal records check conducted 34359
pursuant to a request made under this section is not a public 34360
record for the purposes of section 149.43 of the Revised Code and 34361
shall not be made available to any person other than the 34362
following: 34363

(1) The individual who is the subject of the criminal records 34364
check or the individual's representative; 34365

(2) The chief administrator of the home or program requesting 34366
the criminal records check or the administrator's representative; 34367

(3) The administrator of any other facility, agency, or 34368
program that provides direct care to older adults that is owned or 34369
operated by the same entity that owns or operates the home or 34370
program; 34371

(4) A court, hearing officer, or other necessary individual 34372
involved in a case dealing with a denial of employment of the 34373
applicant or dealing with employment or unemployment benefits of 34374
the applicant; 34375

(5) Any person to whom the report is provided pursuant to, 34376
and in accordance with, division (I)(1) or (2) of this section; 34377

(6) The board of nursing for purposes of accepting and 34378
processing an application for a medication aide certificate issued 34379
under Chapter 4723. of the Revised Code. 34380

(F) In accordance with section 3721.11 of the Revised Code, 34381
the director of health shall adopt rules to implement this 34382
section. The rules shall specify circumstances under which a home 34383

or adult day-care program may employ a person who has been 34384
convicted of or pleaded guilty to an offense listed or described 34385
in division (C)(1) of this section but meets personal character 34386
standards set by the director. 34387

(G) The chief administrator of a home or adult day-care 34388
program shall inform each individual, at the time of initial 34389
application for a position that involves providing direct care to 34390
an older adult, that the individual is required to provide a set 34391
of fingerprint impressions and that a criminal records check is 34392
required to be conducted if the individual comes under final 34393
consideration for employment. 34394

(H) In a tort or other civil action for damages that is 34395
brought as the result of an injury, death, or loss to person or 34396
property caused by an individual who a home or adult day-care 34397
program employs in a position that involves providing direct care 34398
to older adults, all of the following shall apply: 34399

(1) If the home or program employed the individual in good 34400
faith and reasonable reliance on the report of a criminal records 34401
check requested under this section, the home or program shall not 34402
be found negligent solely because of its reliance on the report, 34403
even if the information in the report is determined later to have 34404
been incomplete or inaccurate; 34405

(2) If the home or program employed the individual in good 34406
faith on a conditional basis pursuant to division (C)(2) of this 34407
section, the home or program shall not be found negligent solely 34408
because it employed the individual prior to receiving the report 34409
of a criminal records check requested under this section; 34410

(3) If the home or program in good faith employed the 34411
individual according to the personal character standards 34412
established in rules adopted under division (F) of this section, 34413
the home or program shall not be found negligent solely because 34414

the individual prior to being employed had been convicted of or 34415
pleaded guilty to an offense listed or described in division 34416
(C)(1) of this section. 34417

(I)(1) The chief administrator of a home or adult day-care 34418
program is not required to request that the superintendent of the 34419
bureau of criminal identification and investigation conduct a 34420
criminal records check of an applicant if the applicant has been 34421
referred to the home or program by an employment service that 34422
supplies full-time, part-time, or temporary staff for positions 34423
involving the direct care of older adults and both of the 34424
following apply: 34425

(a) The chief administrator receives from the employment 34426
service or the applicant a report of the results of a criminal 34427
records check regarding the applicant that has been conducted by 34428
the superintendent within the one-year period immediately 34429
preceding the applicant's referral; 34430

(b) The report of the criminal records check demonstrates 34431
that the person has not been convicted of or pleaded guilty to an 34432
offense listed or described in division (C)(1) of this section, or 34433
the report demonstrates that the person has been convicted of or 34434
pleaded guilty to one or more of those offenses, but the home or 34435
adult day-care program chooses to employ the individual pursuant 34436
to division (F) of this section. 34437

(2) The chief administrator of a home or adult day-care 34438
program is not required to request that the superintendent of the 34439
bureau of criminal identification and investigation conduct a 34440
criminal records check of an applicant and may employ the 34441
applicant conditionally as described in this division, if the 34442
applicant has been referred to the home or program by an 34443
employment service that supplies full-time, part-time, or 34444
temporary staff for positions involving the direct care of older 34445
adults and if the chief administrator receives from the employment 34446

service or the applicant a letter from the employment service that 34447
is on the letterhead of the employment service, dated, and signed 34448
by a supervisor or another designated official of the employment 34449
service and that states that the employment service has requested 34450
the superintendent to conduct a criminal records check regarding 34451
the applicant, that the requested criminal records check will 34452
include a determination of whether the applicant has been 34453
convicted of or pleaded guilty to any offense listed or described 34454
in division (C)(1) of this section, that, as of the date set forth 34455
on the letter, the employment service had not received the results 34456
of the criminal records check, and that, when the employment 34457
service receives the results of the criminal records check, it 34458
promptly will send a copy of the results to the home or adult 34459
day-care program. If a home or adult day-care program employs an 34460
applicant conditionally in accordance with this division, the 34461
employment service, upon its receipt of the results of the 34462
criminal records check, promptly shall send a copy of the results 34463
to the home or adult day-care program, and division (C)(2)(b) of 34464
this section applies regarding the conditional employment. 34465

Sec. 3721.13. (A) The rights of residents of a home shall 34466
include, but are not limited to, the following: 34467

(1) The right to a safe and clean living environment pursuant 34468
to the medicare and medicaid programs and applicable state laws 34469
and ~~regulations prescribed~~ rules adopted by the ~~public~~ director of 34470
health ~~council~~; 34471

(2) The right to be free from physical, verbal, mental, and 34472
emotional abuse and to be treated at all times with courtesy, 34473
respect, and full recognition of dignity and individuality; 34474

(3) Upon admission and thereafter, the right to adequate and 34475
appropriate medical treatment and nursing care and to other 34476
ancillary services that comprise necessary and appropriate care 34477

consistent with the program for which the resident contracted. 34478
This care shall be provided without regard to considerations such 34479
as race, color, religion, national origin, age, or source of 34480
payment for care. 34481

(4) The right to have all reasonable requests and inquiries 34482
responded to promptly; 34483

(5) The right to have clothes and bed sheets changed as the 34484
need arises, to ensure the resident's comfort or sanitation; 34485

(6) The right to obtain from the home, upon request, the name 34486
and any specialty of any physician or other person responsible for 34487
the resident's care or for the coordination of care; 34488

(7) The right, upon request, to be assigned, within the 34489
capacity of the home to make the assignment, to the staff 34490
physician of the resident's choice, and the right, in accordance 34491
with the rules and written policies and procedures of the home, to 34492
select as the attending physician a physician who is not on the 34493
staff of the home. If the cost of a physician's services is to be 34494
met under a federally supported program, the physician shall meet 34495
the federal laws and regulations governing such services. 34496

(8) The right to participate in decisions that affect the 34497
resident's life, including the right to communicate with the 34498
physician and employees of the home in planning the resident's 34499
treatment or care and to obtain from the attending physician 34500
complete and current information concerning medical condition, 34501
prognosis, and treatment plan, in terms the resident can 34502
reasonably be expected to understand; the right of access to all 34503
information in the resident's medical record; and the right to 34504
give or withhold informed consent for treatment after the 34505
consequences of that choice have been carefully explained. When 34506
the attending physician finds that it is not medically advisable 34507
to give the information to the resident, the information shall be 34508

made available to the resident's sponsor on the resident's behalf, 34509
if the sponsor has a legal interest or is authorized by the 34510
resident to receive the information. The home is not liable for a 34511
violation of this division if the violation is found to be the 34512
result of an act or omission on the part of a physician selected 34513
by the resident who is not otherwise affiliated with the home. 34514

(9) The right to withhold payment for physician visitation if 34515
the physician did not visit the resident; 34516

(10) The right to confidential treatment of personal and 34517
medical records, and the right to approve or refuse the release of 34518
these records to any individual outside the home, except in case 34519
of transfer to another home, hospital, or health care system, as 34520
required by law or rule, or as required by a third-party payment 34521
contract; 34522

(11) The right to privacy during medical examination or 34523
treatment and in the care of personal or bodily needs; 34524

(12) The right to refuse, without jeopardizing access to 34525
appropriate medical care, to serve as a medical research subject; 34526

(13) The right to be free from physical or chemical 34527
restraints or prolonged isolation except to the minimum extent 34528
necessary to protect the resident from injury to self, others, or 34529
to property and except as authorized in writing by the attending 34530
physician for a specified and limited period of time and 34531
documented in the resident's medical record. Prior to authorizing 34532
the use of a physical or chemical restraint on any resident, the 34533
attending physician shall make a personal examination of the 34534
resident and an individualized determination of the need to use 34535
the restraint on that resident. 34536

Physical or chemical restraints or isolation may be used in 34537
an emergency situation without authorization of the attending 34538
physician only to protect the resident from injury to self or 34539

others. Use of the physical or chemical restraints or isolation 34540
shall not be continued for more than twelve hours after the onset 34541
of the emergency without personal examination and authorization by 34542
the attending physician. The attending physician or a staff 34543
physician may authorize continued use of physical or chemical 34544
restraints for a period not to exceed thirty days, and at the end 34545
of this period and any subsequent period may extend the 34546
authorization for an additional period of not more than thirty 34547
days. The use of physical or chemical restraints shall not be 34548
continued without a personal examination of the resident and the 34549
written authorization of the attending physician stating the 34550
reasons for continuing the restraint. 34551

If physical or chemical restraints are used under this 34552
division, the home shall ensure that the restrained resident 34553
receives a proper diet. In no event shall physical or chemical 34554
restraints or isolation be used for punishment, incentive, or 34555
convenience. 34556

(14) The right to the pharmacist of the resident's choice and 34557
the right to receive pharmaceutical supplies and services at 34558
reasonable prices not exceeding applicable and normally accepted 34559
prices for comparably packaged pharmaceutical supplies and 34560
services within the community; 34561

(15) The right to exercise all civil rights, unless the 34562
resident has been adjudicated incompetent pursuant to Chapter 34563
2111. of the Revised Code and has not been restored to legal 34564
capacity, as well as the right to the cooperation of the home's 34565
administrator in making arrangements for the exercise of the right 34566
to vote; 34567

(16) The right of access to opportunities that enable the 34568
resident, at the resident's own expense or at the expense of a 34569
third-party payer, to achieve the resident's fullest potential, 34570
including educational, vocational, social, recreational, and 34571

habilitation programs;	34572
(17) The right to consume a reasonable amount of alcoholic beverages at the resident's own expense, unless not medically advisable as documented in the resident's medical record by the attending physician or unless contradictory to written admission policies;	34573 34574 34575 34576 34577
(18) The right to use tobacco at the resident's own expense under the home's safety rules and under applicable laws and rules of the state, unless not medically advisable as documented in the resident's medical record by the attending physician or unless contradictory to written admission policies;	34578 34579 34580 34581 34582
(19) The right to retire and rise in accordance with the resident's reasonable requests, if the resident does not disturb others or the posted meal schedules and upon the home's request remains in a supervised area, unless not medically advisable as documented by the attending physician;	34583 34584 34585 34586 34587
(20) The right to observe religious obligations and participate in religious activities; the right to maintain individual and cultural identity; and the right to meet with and participate in activities of social and community groups at the resident's or the group's initiative;	34588 34589 34590 34591 34592
(21) The right upon reasonable request to private and unrestricted communications with the resident's family, social worker, and any other person, unless not medically advisable as documented in the resident's medical record by the attending physician, except that communications with public officials or with the resident's attorney or physician shall not be restricted. Private and unrestricted communications shall include, but are not limited to, the right to:	34593 34594 34595 34596 34597 34598 34599 34600
(a) Receive, send, and mail sealed, unopened correspondence;	34601
(b) Reasonable access to a telephone for private	34602

communications; 34603

(c) Private visits at any reasonable hour. 34604

(22) The right to assured privacy for visits by the spouse, 34605
or if both are residents of the same home, the right to share a 34606
room within the capacity of the home, unless not medically 34607
advisable as documented in the resident's medical record by the 34608
attending physician; 34609

(23) The right upon reasonable request to have room doors 34610
closed and to have them not opened without knocking, except in the 34611
case of an emergency or unless not medically advisable as 34612
documented in the resident's medical record by the attending 34613
physician; 34614

(24) The right to retain and use personal clothing and a 34615
reasonable amount of possessions, in a reasonably secure manner, 34616
unless to do so would infringe on the rights of other residents or 34617
would not be medically advisable as documented in the resident's 34618
medical record by the attending physician; 34619

(25) The right to be fully informed, prior to or at the time 34620
of admission and during the resident's stay, in writing, of the 34621
basic rate charged by the home, of services available in the home, 34622
and of any additional charges related to such services, including 34623
charges for services not covered under the medicare or medicaid 34624
program. The basic rate shall not be changed unless thirty days' 34625
notice is given to the resident or, if the resident is unable to 34626
understand this information, to the resident's sponsor. 34627

(26) The right of the resident and person paying for the care 34628
to examine and receive a bill at least monthly for the resident's 34629
care from the home that itemizes charges not included in the basic 34630
rates; 34631

(27)(a) The right to be free from financial exploitation; 34632

(b) The right to manage the resident's own personal financial 34633
affairs, or, if the resident has delegated this responsibility in 34634
writing to the home, to receive upon written request at least a 34635
quarterly accounting statement of financial transactions made on 34636
the resident's behalf. The statement shall include: 34637

(i) A complete record of all funds, personal property, or 34638
possessions of a resident from any source whatsoever, that have 34639
been deposited for safekeeping with the home for use by the 34640
resident or the resident's sponsor; 34641

(ii) A listing of all deposits and withdrawals transacted, 34642
which shall be substantiated by receipts which shall be available 34643
for inspection and copying by the resident or sponsor. 34644

(28) The right of the resident to be allowed unrestricted 34645
access to the resident's property on deposit at reasonable hours, 34646
unless requests for access to property on deposit are so 34647
persistent, continuous, and unreasonable that they constitute a 34648
nuisance; 34649

(29) The right to receive reasonable notice before the 34650
resident's room or roommate is changed, including an explanation 34651
of the reason for either change. 34652

(30) The right not to be transferred or discharged from the 34653
home unless the transfer is necessary because of one of the 34654
following: 34655

(a) The welfare and needs of the resident cannot be met in 34656
the home. 34657

(b) The resident's health has improved sufficiently so that 34658
the resident no longer needs the services provided by the home. 34659

(c) The safety of individuals in the home is endangered. 34660

(d) The health of individuals in the home would otherwise be 34661
endangered. 34662

(e) The resident has failed, after reasonable and appropriate notice, to pay or to have the medicare or medicaid program pay on the resident's behalf, for the care provided by the home. A resident shall not be considered to have failed to have the resident's care paid for if the resident has applied for medicaid, unless both of the following are the case:

(i) The resident's application, or a substantially similar previous application, has been denied by the county department of job and family services.

(ii) If the resident appealed the denial pursuant to division (C) of section 5101.35 of the Revised Code, the director of job and family services has upheld the denial.

(f) The home's license has been revoked, the home is being closed pursuant to section 3721.08, sections 5111.35 to 5111.62, or section 5155.31 of the Revised Code, or the home otherwise ceases to operate.

(g) The resident is a recipient of medicaid, and the home's participation in the medicaid program is involuntarily terminated or denied.

(h) The resident is a beneficiary under the medicare program, and the home's participation in the medicare program is involuntarily terminated or denied.

(31) The right to voice grievances and recommend changes in policies and services to the home's staff, to employees of the department of health, or to other persons not associated with the operation of the home, of the resident's choice, free from restraint, interference, coercion, discrimination, or reprisal. This right includes access to a residents' rights advocate, and the right to be a member of, to be active in, and to associate with persons who are active in organizations of relatives and friends of nursing home residents and other organizations engaged

in assisting residents. 34694

(32) The right to have any significant change in the 34695
resident's health status reported to the resident's sponsor. As 34696
soon as such a change is known to the home's staff, the home shall 34697
make a reasonable effort to notify the sponsor within twelve 34698
hours. 34699

(B) A sponsor may act on a resident's behalf to assure that 34700
the home does not deny the residents' rights under sections 34701
3721.10 to 3721.17 of the Revised Code. 34702

(C) Any attempted waiver of the rights listed in division (A) 34703
of this section is void. 34704

Sec. 3721.21. As used in sections 3721.21 to 3721.34 of the 34705
Revised Code: 34706

(A) "Long-term care facility" means either of the following: 34707

(1) A nursing home as defined in section 3721.01 of the 34708
Revised Code, ~~other than a nursing home or part of a nursing home~~ 34709
~~certified as an intermediate care facility for the mentally~~ 34710
~~retarded under Title XIX of the "Social Security Act," 49 Stat.~~ 34711
~~620 (1935), 42 U.S.C.A. 301, as amended;~~ 34712

(2) A facility or part of a facility that is certified as a 34713
skilled nursing facility or a nursing facility under Title XVIII 34714
or XIX of the "Social Security Act." 34715

(B) "Residential care facility" has the same meaning as in 34716
section 3721.01 of the Revised Code. 34717

(C) "Abuse" means knowingly causing physical harm or 34718
recklessly causing serious physical harm to a resident by physical 34719
contact with the resident or by use of physical or chemical 34720
restraint, medication, or isolation as punishment, for staff 34721
convenience, excessively, as a substitute for treatment, or in 34722
amounts that preclude habilitation and treatment. 34723

(D) "Neglect" means recklessly failing to provide a resident with any treatment, care, goods, or service necessary to maintain the health or safety of the resident when the failure results in serious physical harm to the resident. "Neglect" does not include allowing a resident, at the resident's option, to receive only treatment by spiritual means through prayer in accordance with the tenets of a recognized religious denomination.

(E) "Misappropriation" means depriving, defrauding, or otherwise obtaining the real or personal property of a resident by any means prohibited by the Revised Code, including violations of Chapter 2911. or 2913. of the Revised Code.

(F) "Resident" includes a resident, patient, former resident or patient, or deceased resident or patient of a long-term care facility or a residential care facility.

(G) "Physical restraint" has the same meaning as in section 3721.10 of the Revised Code.

(H) "Chemical restraint" has the same meaning as in section 3721.10 of the Revised Code.

(I) "Nursing and nursing-related services" means the personal care services and other services not constituting skilled nursing care that are specified in rules the ~~public~~ director of health council shall adopt in accordance with Chapter 119. of the Revised Code.

(J) "Personal care services" has the same meaning as in section 3721.01 of the Revised Code.

(K)(1) Except as provided in division (K)(2) of this section, "nurse aide" means an individual who provides nursing and nursing-related services to residents in a long-term care facility, either as a member of the staff of the facility for monetary compensation or as a volunteer without monetary compensation.

(2) "Nurse aide" does not include either of the following:	34755
(a) A licensed health professional practicing within the scope of the professional's license;	34756 34757
(b) An individual providing nursing and nursing-related services in a religious nonmedical health care institution, if the individual has been trained in the principles of nonmedical care and is recognized by the institution as being competent in the administration of care within the religious tenets practiced by the residents of the institution.	34758 34759 34760 34761 34762 34763
(L) "Licensed health professional" means all of the following:	34764 34765
(1) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;	34766 34767
(2) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;	34768 34769
(3) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;	34770 34771 34772
(4) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;	34773 34774
(5) A registered nurse or licensed practical nurse licensed under Chapter 4723. of the Revised Code;	34775 34776
(6) A social worker or independent social worker licensed under Chapter 4757. of the Revised Code or a social work assistant registered under that chapter;	34777 34778 34779
(7) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;	34780 34781
(8) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;	34782 34783

(9) An optometrist licensed under Chapter 4725. of the Revised Code;	34784 34785
(10) A pharmacist licensed under Chapter 4729. of the Revised Code;	34786 34787
(11) A psychologist licensed under Chapter 4732. of the Revised Code;	34788 34789
(12) A chiropractor licensed under Chapter 4734. of the Revised Code;	34790 34791
(13) A nursing home administrator licensed or temporarily licensed under Chapter 4751. of the Revised Code;	34792 34793
(14) A professional counselor or professional clinical counselor licensed under Chapter 4757. of the Revised Code.	34794 34795
(M) "Religious nonmedical health care institution" means an institution that meets or exceeds the conditions to receive payment under the medicare program established under Title XVIII of the "Social Security Act" for inpatient hospital services or post-hospital extended care services furnished to an individual in a religious nonmedical health care institution, as defined in section 1861(ss)(1) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395x(ss)(1), as amended.	34796 34797 34798 34799 34800 34801 34802 34803
(N) "Competency evaluation program" means a program through which the competency of a nurse aide to provide nursing and nursing-related services is evaluated.	34804 34805 34806
(O) "Training and competency evaluation program" means a program of nurse aide training and evaluation of competency to provide nursing and nursing-related services.	34807 34808 34809
Sec. 3721.28. (A)(1) Each nurse aide used by a long-term care facility on a full-time, temporary, per diem, or other basis on July 1, 1989, shall be provided by the facility a competency evaluation program approved by the director of health under	34810 34811 34812 34813

division (A) of section 3721.31 of the Revised Code or conducted 34814
by ~~him~~ the director under division (C) of that section. Each 34815
long-term care facility using a nurse aide on July 1, 1989, shall 34816
provide the nurse aide the preparation necessary to complete the 34817
competency evaluation program by January 1, 1990. 34818

(2) Each nurse aide used by a long-term care facility on a 34819
full-time, temporary, per diem, or other basis on January 1, 1990, 34820
who either was not used by the facility on July 1, 1989, or was 34821
used by the facility on July 1, 1989, but had not successfully 34822
completed a competency evaluation program by January 1, 1990, 34823
shall be provided by the facility a competency evaluation program 34824
approved by the director under division (A) of section 3721.31 of 34825
the Revised Code or conducted by ~~him~~ the director under division 34826
(C) of that section. Each long-term care facility using a nurse 34827
aide described in division (A)(2) of this section shall provide 34828
the nurse aide the preparation necessary to complete the 34829
competency evaluation program by October 1, 1990, and shall assist 34830
the nurse aide in registering for the program. 34831

(B) Effective June 1, 1990, no long-term care facility shall 34832
use an individual as a nurse aide for more than four months unless 34833
the individual is competent to provide the services ~~he~~ the 34834
individual is to provide, the facility has received from the nurse 34835
aide registry established under section 3721.32 of the Revised 34836
Code the information concerning the individual provided through 34837
the registry, and one of the following is the case: 34838

(1) The individual was used by a facility as a nurse aide on 34839
a full-time, temporary, per diem, or other basis at any time 34840
during the period commencing July 1, 1989, and ending January 1, 34841
1990, and successfully completed, not later than October 1, 1990, 34842
a competency evaluation program approved by the director under 34843
division (A) of section 3721.31 of the Revised Code or conducted 34844
by ~~him~~ the director under division (C) of that section. 34845

(2) The individual has successfully completed a training and competency evaluation program approved by the director under division (A) of section 3721.31 of the Revised Code or conducted by ~~him~~ the director under division (C) of that section or has met the conditions specified in division (F) of this section and, in addition, if the training and competency evaluation program or the training, instruction, or education the individual completed in meeting the conditions specified in division (F) of this section was conducted by or in a long-term care facility, or if the director pursuant to division (E) of section 3721.31 of the Revised Code so requires, the individual has successfully completed a competency evaluation program conducted by the director.

(3) Prior to July 1, 1989, if the long-term care facility is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, or prior to January 1, 1990, if the facility is not so certified, the individual completed a program that the director determines included a competency evaluation component no less stringent than the competency evaluation programs approved by ~~him~~ the director under division (A) of section 3721.31 of the Revised Code or conducted by ~~him~~ the director under division (C) of that section, and was otherwise comparable to the training and competency evaluation programs being approved by the director under division (A) of that section.

(4) The individual is listed in a nurse aide registry maintained by another state and that state certifies that its program for training and evaluation of competency of nurse aides complies with Titles XVIII and XIX of the "Social Security Act" and regulations adopted thereunder.

(5) Prior to July 1, 1989, the individual was found competent

to serve as a nurse aide after the completion of a course of nurse 34878
aide training of at least one hundred hours' duration. 34879

(6) The individual is enrolled in a prelicensure program of 34880
nursing education approved by the board of nursing or by an agency 34881
of another state that regulates nursing education, has provided 34882
the long-term care facility with a certificate from the program 34883
indicating that the individual has successfully completed the 34884
courses that teach basic nursing skills including infection 34885
control, safety and emergency procedures, and personal care, and 34886
has successfully completed a competency evaluation program 34887
conducted by the director under division (C) of section 3721.31 of 34888
the Revised Code. 34889

(7) The individual has the equivalent of twelve months or 34890
more of full-time employment in the preceding five years as a 34891
hospital aide or orderly and has successfully completed a 34892
competency evaluation program conducted by the director under 34893
division (C) of section 3721.31 of the Revised Code. 34894

(C) Effective June 1, 1990, no long-term care facility shall 34895
continue for longer than four months to use as a nurse aide an 34896
individual who previously met the requirements of division (B) of 34897
this section but since most recently doing so has not performed 34898
nursing and nursing-related services for monetary compensation for 34899
twenty-four consecutive months, unless the individual successfully 34900
completes additional training and competency evaluation by 34901
complying with divisions (C)(1) and (2) of this section: 34902

(1) Doing one of the following: 34903

(a) Successfully completing a training and competency 34904
evaluation program approved by the director under division (A) of 34905
section 3721.31 of the Revised Code or conducted by ~~him~~ the 34906
director under division (C) of that section; 34907

(b) Successfully completing a training and competency 34908

evaluation program described in division (B)(4) of this section; 34909

(c) Meeting the requirements specified in division (B)(6) or 34910
(7) of this section. 34911

(2) If the training and competency evaluation program 34912
completed under division (C)(1)(a) of this section was conducted 34913
by or in a long-term care facility, or if the director pursuant to 34914
division (E) of section 3721.31 of the Revised Code so requires, 34915
successfully completing a competency evaluation program conducted 34916
by the director. 34917

(D)(1) The four-month periods provided for in divisions (B) 34918
and (C) of this section include any time, on or after June 1, 34919
1990, that an individual is used as a nurse aide on a full-time, 34920
temporary, per diem, or any other basis by the facility or any 34921
other long-term care facility. 34922

(2) During the four-month period provided for in division (B) 34923
of this section, during which a long-term care facility may, 34924
subject to division (E) of this section, use as a nurse aide an 34925
individual who does not have the qualifications specified in 34926
divisions (B)(1) to (7) of this section, a facility shall require 34927
the individual to comply with divisions (D)(2)(a) and (b) of this 34928
section: 34929

(a) Participate in one of the following: 34930

(i) If the individual has successfully completed a training 34931
and competency evaluation program approved by the director under 34932
division (A) of section 3721.31 of the Revised Code, and the 34933
program was conducted by or in a long-term care facility, or the 34934
director pursuant to division (E) of section 3721.31 of the 34935
Revised Code so requires, a competency evaluation program 34936
conducted by the director; 34937

(ii) If the individual is enrolled in a prelicensure program 34938
of nursing education described in division (B)(6) of this section 34939

and has completed or is working toward completion of the courses 34940
described in that division, or the individual has the experience 34941
described in division (B)(7) of this section, a competency 34942
evaluation program conducted by the director; 34943

(iii) A training and competency evaluation program approved 34944
by the director under division (A) of section 3721.31 of the 34945
Revised Code or conducted by ~~him~~ the director under division (C) 34946
of that section. 34947

(b) If the individual participates in or has successfully 34948
completed a training and competency evaluation program under 34949
division (D)(2)(a)(iii) of this section that is conducted by or in 34950
a long-term care facility, or the director pursuant to division 34951
(E) of section 3721.31 of the Revised Code so requires, ~~participate~~ 34952
participate in a competency evaluation program conducted by the 34953
director. 34954

(3) During the four-month period provided for in division (C) 34955
of this section, during which a long-term care facility may, 34956
subject to division (E) of this section, use as a nurse aide an 34957
individual who does not have the qualifications specified in 34958
divisions (C)(1) and (2) of this section, a facility shall require 34959
the individual to comply with divisions (D)(3)(a) and (b) of this 34960
section: 34961

(a) Participate in one of the following: 34962

(i) If the individual has successfully completed a training 34963
and competency evaluation program approved by the director, and 34964
the program was conducted by or in a long-term care facility, or 34965
the director pursuant to division (E) of section 3721.31 of the 34966
Revised Code so requires, a competency evaluation program 34967
conducted by the director; 34968

(ii) If the individual is enrolled in a prelicensure program 34969
of nursing education described in division (B)(6) of this section 34970

and has completed or is working toward completion of the courses 34971
described in that division, or the individual has the experience 34972
described in division (B)(7) of this section, a competency 34973
evaluation program conducted by the director; 34974

(iii) A training and competency evaluation program approved 34975
or conducted by the director. 34976

(b) If the individual participates in or has successfully 34977
completed a training and competency evaluation program under 34978
division (D)(3)(a)(iii) of this section that is conducted by or in 34979
a long-term care facility, or the director pursuant to division 34980
(E) of section 3721.31 of the Revised Code so requires, 34981
participate in a competency evaluation program conducted by the 34982
director. 34983

(E) A long-term care facility shall not permit an individual 34984
used by the facility as a nurse aide while participating in a 34985
training and competency evaluation program to provide nursing and 34986
nursing-related services unless both of the following are the 34987
case: 34988

(1) The individual has completed the number of hours of 34989
training that ~~he must complete~~ be completed prior to providing 34990
services to residents as prescribed by rules that shall be adopted 34991
by the director in accordance with Chapter 119. of the Revised 34992
Code; 34993

(2) The individual is under the personal supervision of a 34994
registered or licensed practical nurse licensed under Chapter 34995
4723. of the Revised Code. 34996

(F) An individual shall be considered to have satisfied the 34997
requirement, under division (B)(2) of this section, of having 34998
successfully completed a training and competency evaluation 34999
program conducted or approved by the director, if the individual 35000
meets both of the following conditions: 35001

(1) The individual, as of July 1, 1989, completed at least 35002
sixty hours divided between skills training and classroom 35003
instruction in the topic areas described in divisions (B)(1) to 35004
(8) of section 3721.30 of the Revised Code; 35005

(2) The individual received, as of that date, at least the 35006
difference between seventy-five hours and the number of hours 35007
actually spent in training and competency evaluation in supervised 35008
practical nurse aide training or regular in-service nurse aide 35009
education. 35010

(G) The ~~public health council~~ director shall adopt rules in 35011
accordance with Chapter 119. of the Revised Code specifying 35012
persons, in addition to the director, who may establish competence 35013
of nurse aides under division (B)(5) of this section, and 35014
establishing criteria for determining whether an individual meets 35015
the conditions specified in division (F) of this section. 35016

(H) The rules adopted pursuant to divisions (E)(1) and (G) of 35017
this section shall be no less stringent than the requirements, 35018
guidelines, and procedures established by the United States 35019
secretary of health and human services under sections 1819 and 35020
1919 of the "Social Security Act." 35021

Sec. 3721.29. In addition to competency evaluation programs 35022
and training and competency evaluation programs required by this 35023
chapter, each long-term care facility shall provide both of the 35024
following to each nurse aide it uses: 35025

(A) An orientation program that includes at least an 35026
explanation of the organizational structure of the facility, its 35027
policies and procedures, its philosophy of care, a description of 35028
its resident population, and an enumeration of its employee rules; 35029

(B) Regular performance review and in-service education to 35030
assure that individuals working in the facility as nurse aides are 35031

competent to perform the nursing and nursing-related services they 35032
perform. In-service education shall include training for nurse 35033
aides providing nursing and nursing-related services to residents 35034
and patients with cognitive impairments. 35035

The ~~public~~ director of health council shall adopt rules to 35036
implement the purposes of this section. The rules shall be no less 35037
stringent than the requirements, guidelines, and procedures 35038
established by the United States secretary of health and human 35039
services under sections 1819 and 1919 of the "Social Security 35040
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended. 35041

Sec. 3721.50. As used in sections 3721.50 to 3721.58 of the 35042
Revised Code: 35043

(A) "Bed surrender" means the following: 35044

(1) In the case of a nursing home, the removal of a bed from 35045
a nursing home's licensed capacity in a manner that reduces the 35046
total licensed capacity of all nursing homes; 35047

(2) In the case of a hospital, the removal of a hospital bed 35048
from registration under section 3701.07 of the Revised Code as a 35049
skilled nursing facility bed or long-term care bed in a manner 35050
that reduces the total number of hospital beds registered under 35051
that section as skilled nursing facility beds or long-term care 35052
beds. 35053

(B) "Change of operator" means an entering operator becoming 35054
the operator of a nursing home or hospital in the place of the 35055
exiting operator. 35056

(1) Actions that constitute a change of operator include the 35057
following: 35058

(a) A change in an exiting operator's form of legal 35059
organization, including the formation of a partnership or 35060
corporation from a sole proprietorship; 35061

- (b) A transfer of all the exiting operator's ownership interest in the operation of the nursing home or hospital to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the nursing home or hospital is also transferred; 35062
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- (c) A lease of the nursing home or hospital to the entering operator or the exiting operator's termination of the exiting operator's lease; 35067
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- (d) If the exiting operator is a partnership, dissolution of the partnership; 35070
35071
- (e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply: 35072
35073
- (i) The change in composition does not cause the partnership's dissolution under state law. 35074
35075
- (ii) The partners agree that the change in composition does not constitute a change in operator. 35076
35077
- (f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation. 35078
35079
35080
35081
- (2) The following, alone, do not constitute a change of operator: 35082
35083
- (a) A contract for an entity to manage a nursing home or hospital as the operator's agent, subject to the operator's approval of daily operating and management decisions; 35084
35085
35086
- (b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing home or hospital if an entering operator does not become the operator in place of an exiting operator; 35087
35088
35089
35090
- (c) If the operator is a corporation, a change of one or more 35091

members of the corporation's governing body or transfer of 35092
ownership of one or more shares of the corporation's stock, if the 35093
same corporation continues to be the operator. 35094

(C) "Effective date of a change of operator" means the day an 35095
entering operator becomes the operator of a nursing home or 35096
hospital. 35097

(D) "Entering operator" means the person or government entity 35098
that will become the operator of a nursing home or hospital on the 35099
effective date of a change of operator. 35100

(E) "Exiting operator" means an operator that will cease to 35101
be the operator of a nursing home or hospital on the effective 35102
date of a change of operator. 35103

(F) "Franchise permit fee rate" means the following: 35104

(1) For fiscal year 2012, eleven dollars and forty-seven 35105
cents; 35106

(2) For fiscal year 2013 and each fiscal year thereafter, 35107
eleven dollars and sixty-seven cents. 35108

(G) "Hospital" has the same meaning as in section 3727.01 of 35109
the Revised Code. 35110

(H) "Hospital long-term care unit" means any distinct part of 35111
a hospital in which any of the following beds are located: 35112

(1) Beds registered pursuant to section 3701.07 of the 35113
Revised Code as skilled nursing facility beds or long-term care 35114
beds; 35115

(2) Beds licensed as nursing home beds under section 3721.02 35116
or 3721.09 of the Revised Code. 35117

(I) "Indirect guarantee percentage" means the percentage 35118
specified in section 1903(w)(4)(C)(ii) of the "Social Security 35119
Act," 120 Stat. 2994 (2006), 42 U.S.C. 1396b(w)(4)(C)(ii) that is 35120
to be used in determining whether a class of providers is 35121

indirectly held harmless for any portion of the costs of a 35122
broad-based health-care-related tax. If the indirect guarantee 35123
percentage changes during a fiscal year, the indirect guarantee 35124
percentage is the following: 35125

(1) For the part of the fiscal year before the change takes 35126
effect, the percentage in effect before the change; 35127

(2) For the part of the fiscal year beginning with the date 35128
the indirect guarantee percentage changes, the new percentage. 35129

~~(J) "Inpatient days" means all days during which a resident 35130
of a nursing facility, regardless of payment source, occupies a 35131
bed in the nursing facility that is included in the facility's 35132
certified capacity under Title XIX. Therapeutic or hospital leave 35133
days for which payment is made under section 5111.26 of the 35134
Revised Code are considered inpatient days proportionate to the 35135
percentage of the facility's per resident per day rate paid for 35136
those days. 35137~~

~~(K) "Medicaid" has the same meaning as in section 5111.01 of 35138
the Revised Code. 35139~~

~~(L) "Medicaid day" means all days during which a resident who 35140
is a medicaid recipient occupies a bed in a nursing facility that 35141
is included in the facility's certified capacity under Title XIX. 35142
Therapeutic or hospital leave days for which payment is made under 35143
section 5111.26 of the Revised Code are considered medicaid days 35144
proportionate to the percentage of the nursing facility's per 35145
resident per day rate for those days. 35146~~

~~(M)(K) "Medicare" means the program established by Title 35147
XVIII. 35148~~

~~(N)(L) "Nursing facility" has the same meaning as in section 35149
5111.20 of the Revised Code. 35150~~

~~(O)(M)(1) "Nursing home" means all of the following: 35151~~

(a) A nursing home licensed under section 3721.02 or 3721.09 of the Revised Code, including any part of a home for the aging licensed as a nursing home;

(b) A facility or part of a facility, other than a hospital, that is certified as a skilled nursing facility under Title XVIII;

(c) A nursing facility, other than a portion of a hospital certified as a nursing facility.

(2) "Nursing home" does not include ~~any~~ either of the following:

(a) A county home, county nursing home, or district home operated pursuant to Chapter 5155. of the Revised Code;

(b) A nursing home maintained and operated by the department of veterans services under section 5907.01 of the Revised Code;

~~(c) A nursing home or part of a nursing home licensed under section 3721.02 or 3721.09 of the Revised Code that is certified as an intermediate care facility for the mentally retarded under Title XIX.~~

~~(P)~~(N) "Operator" means the person or government entity responsible for the daily operating and management decisions for a nursing home or hospital.

~~(Q)~~(O) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.

~~(R)~~(P) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

Sec. 3721.51. The department of job and family services shall do all of the following:

(A) Subject to sections 3721.512, 3721.513, and 3721.531 of the Revised Code and divisions (C) and (D) of this section and for the purposes specified in section 3721.56 of the Revised Code,

determine an annual franchise permit fee on each nursing home in 35181
an amount equal to the franchise permit fee rate multiplied by the 35182
product of the following: 35183

(1) The number of beds licensed as nursing home beds, plus 35184
any other beds certified as skilled nursing facility beds under 35185
Title XVIII or nursing facility beds under Title XIX on the first 35186
day of May of the calendar year in which the fee is determined 35187
pursuant to division (A) of section 3721.53 of the Revised Code; 35188

(2) The number of days in the fiscal year beginning on the 35189
first day of July of the calendar year in which the fee is 35190
determined pursuant to division (A) of section 3721.53 of the 35191
Revised Code. 35192

(B) Subject to sections 3721.512, 3721.513, and 3721.531 of 35193
the Revised Code and divisions (C) and (D) of this section and for 35194
the purposes specified in section 3721.56 of the Revised Code, 35195
determine an annual franchise permit fee on each hospital in an 35196
amount equal to the franchise permit fee rate multiplied by the 35197
product of the following: 35198

(1) The number of beds registered pursuant to section 3701.07 35199
of the Revised Code as skilled nursing facility beds or long-term 35200
care beds, plus any other beds licensed as nursing home beds under 35201
section 3721.02 or 3721.09 of the Revised Code, on the first day 35202
of May of the calendar year in which the fee is determined 35203
pursuant to division (A) of section 3721.53 of the Revised Code; 35204

(2) The number of days in the fiscal year beginning on the 35205
first day of July of the calendar year in which the fee is 35206
determined pursuant to division (A) of section 3721.53 of the 35207
Revised Code. 35208

(C) If the total amount of the franchise permit fee assessed 35209
under divisions (A) and (B) of this section for a fiscal year 35210
exceeds the indirect guarantee percentage of the actual net 35211

patient revenue for all nursing homes and hospital long-term care 35212
units for that fiscal year and seventy-five per cent or more of 35213
the combined total number of nursing homes and hospital long-term 35214
care units receive enhanced medicaid payments or other state 35215
payments equal to seventy-five per cent or more of their total 35216
franchise permit fee assessments, do both of the following: 35217

(1) Recalculate the assessments under divisions (A) and (B) 35218
of this section using a per bed per day rate equal to the indirect 35219
guarantee percentage of actual net patient revenue for all nursing 35220
homes and hospital long-term care units for that fiscal year; 35221

(2) Refund the difference between the amount of the franchise 35222
permit fee assessed for that fiscal year under divisions (A) and 35223
(B) of this section and the amount recalculated under division 35224
(C)(1) of this section as a credit against the assessments imposed 35225
under divisions (A) and (B) of this section for the subsequent 35226
fiscal year. 35227

(D) If the United States centers for medicare and medicaid 35228
services determines that the franchise permit fee established by 35229
sections 3721.50 to 3721.58 of the Revised Code is an 35230
impermissible health care-related tax under section 1903(w) of the 35231
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as 35232
amended, take all necessary actions to cease implementation of 35233
sections 3721.50 to 3721.58 of the Revised Code in accordance with 35234
rules adopted under section 3721.58 of the Revised Code. 35235

Sec. 3723.06. (A) The director of health shall license radon 35236
testers, mitigation specialists, and mitigation contractors. Each 35237
applicant for a license shall submit a completed application to 35238
the director on a form the director shall prescribe and furnish. 35239

(B) In accordance with rules adopted ~~by the public health~~ 35240
~~council~~ under section 3723.09 of the Revised Code, the director 35241
shall issue the appropriate license to each applicant that pays 35242

the license fee prescribed by the ~~council~~ director, meets the 35243
licensing criteria established by the ~~council~~ director, and 35244
complies with any other licensing and training requirements 35245
established by the ~~council~~ director. An individual, business 35246
entity, or government entity may hold more than one license issued 35247
under this section, but a separate application is required for 35248
each license. 35249

(C) Notwithstanding division (B) of this section, the 35250
director shall issue a radon mitigation contractor license on 35251
request to the holder of a radon mitigation specialist license if 35252
the license holder is the owner or chief stockholder of a business 35253
entity for which ~~he~~ the license holder is the only individual who 35254
will work as a radon mitigation specialist. The licensing criteria 35255
and any other licensing and training requirements the individual 35256
was required to meet to qualify for the radon mitigation 35257
specialist license are hereby deemed to satisfy any and all 35258
criteria and requirements for a radon mitigation contractor 35259
license. A license issued under this division shall expire at the 35260
same time as the individual's radon mitigation specialist license. 35261
No license fee shall be imposed for a license issued under this 35262
division. 35263

(D) A license issued under this section expires biennially 35264
and may be renewed by the director in accordance with criteria and 35265
procedures established ~~by the public health council~~ in rules 35266
adopted under section 3723.09 of the Revised Code and on payment 35267
of the license renewal fee prescribed ~~by the council~~ in those 35268
rules. 35269

(E) In accordance with Chapter 119. of the Revised Code, the 35270
director may do either of the following: 35271

(1) Refuse to issue a license to an individual, business 35272
entity, or government entity that does not meet the requirements 35273
of this chapter or the rules adopted under it or has been in 35274

violation of those requirements; 35275

(2) Suspend, revoke, or refuse to renew the license of an 35276
individual, business entity, or government entity that is or has 35277
been in violation of the requirements of this chapter or the rules 35278
adopted under it. 35279

Sec. 3723.07. The director of health shall approve all of the 35280
following: 35281

(A) Licensure training courses for radon testers and 35282
mitigation specialists; 35283

(B) Training courses for employees of mitigation contractors; 35284

(C) Radon laboratories. 35285

Each applicant for approval shall submit a completed 35286
application to the director on a form the director shall prescribe 35287
and furnish. 35288

In accordance with rules adopted ~~by the public health council~~ 35289
under section 3723.09 of the Revised Code, the director shall 35290
issue the appropriate approval to each applicant that pays the 35291
approval fee prescribed by the ~~council~~ director and meets the 35292
criteria for approval established by the ~~council~~ director. 35293

In accordance with Chapter 119. of the Revised Code, the 35294
director may refuse to issue an approval and may revoke or suspend 35295
an approval issued under this section if the operator of the 35296
course or laboratory fails to meet the criteria established by the 35297
~~public health council~~ director. 35298

Sec. 3723.09. (A) To protect the health of individuals 35299
inhabiting, occupying, or frequenting buildings, the ~~public~~ 35300
director of health ~~council~~ shall adopt rules to implement the 35301
requirements of this chapter. All rules adopted under this section 35302
shall be adopted in accordance with Chapter 119. of the Revised 35303

Code. 35304

(B) The ~~public health council~~ director shall adopt rules 35305
establishing criteria and procedures ~~to be followed by the~~ 35306
~~director of health in~~ for issuing and renewing licenses under 35307
section 3723.06 of the Revised Code to radon testers, mitigation 35308
specialists, and mitigation contractors. The rules may require 35309
that all applicants for licensure as a radon tester or mitigation 35310
specialist pass an examination. If an examination is required, the 35311
rules may require applicants to pass an examination conducted by 35312
the department or an appropriate examination conducted by the 35313
United States environmental protection agency. 35314

(C) The ~~public health council~~ director shall adopt rules 35315
establishing criteria and procedures ~~to be followed by the~~ 35316
~~director of health in~~ for approving training courses under section 35317
3723.07 of the Revised Code. The rules may require that 35318
participants in training courses pass an examination conducted by 35319
the operator of the course and may require that the examinations 35320
be approved by the director ~~of health~~. 35321

(D) The ~~public health council~~ director shall adopt rules 35322
establishing criteria and procedures ~~to be followed by the~~ 35323
~~director of health in~~ for approving radon laboratories under 35324
section 3723.07 of the Revised Code. 35325

(E) The ~~public health council~~ director shall adopt rules 35326
establishing reasonable fees for licenses, license renewals, radon 35327
laboratory approvals, and training course approvals. 35328

(F) The ~~public health council~~ director shall adopt rules 35329
establishing standards to be followed by licensed radon testers, 35330
mitigation specialists, and mitigation contractors for the 35331
prevention of hazards to the public health, including standards 35332
for worker protection, record keeping, and training of employees 35333
of licensed radon mitigation contractors. 35334

(G) The ~~public health council~~ director shall adopt rules 35335
establishing procedures to be followed by any individual, business 35336
entity, or government entity licensed by another state to practice 35337
as a radon tester, mitigation specialist, or mitigation contractor 35338
in providing notice to the director of health prior to commencing 35339
practice in this state pursuant to section 3723.03 of the Revised 35340
Code. 35341

(H) The ~~public health council~~ director may adopt rules that 35342
require licensed radon testers and mitigation specialists to 35343
report to the director ~~of health~~, by street address, radon test 35344
results that indicate the presence of radon at a level considered 35345
to be dangerous as determined by the ~~council~~ director. The rules 35346
may require the reporting of screening measurements, follow-up 35347
measurements, post-mitigation measurements, and, if it is known 35348
that radon mitigation has been performed, the methods of 35349
mitigation that were used. Any information required to be reported 35350
to the director under these rules is not a public record under 35351
section 149.43 of the Revised Code, and shall not be released 35352
except in aggregate statistical form. 35353

Sec. 3725.02. (A) No person other than a hospital shall 35354
collect plasma, regardless of the use for which the plasma is 35355
intended, except at a plasmapheresis center holding a current, 35356
valid certificate of approval issued by the director of health. 35357

Whoever violates this division is guilty of a misdemeanor of 35358
the fourth degree. 35359

(B) The ~~public health council~~ director shall adopt such rules 35360
as are necessary to carry out this chapter. 35361

Sec. 3727.01. (A) As used in this section, "health 35362
maintenance organization" means a public or private organization 35363
organized under the law of any state that is qualified under 35364

section 1310(d) of Title XIII of the "Public Health Service Act," 35365
87 Stat. 931 (1973), 42 U.S.C. 300e-9, or that does all of the 35366
following: 35367

(1) Provides or otherwise makes available to enrolled 35368
participants health care services including at least the following 35369
basic health care services: usual physician services, 35370
hospitalization, laboratory, x-ray, emergency and preventive 35371
service, and out-of-area coverage; 35372

(2) Is compensated, except for copayments, for the provision 35373
of basic health care services to enrolled participants by a 35374
payment that is paid on a periodic basis without regard to the 35375
date the health care services are provided and that is fixed 35376
without regard to the frequency, extent, or kind of health service 35377
actually provided; 35378

(3) Provides physician services primarily in either of the 35379
following ways: 35380

(a) Directly through physicians who are either employees or 35381
partners of the organization; 35382

(b) Through arrangements with individual physicians or one or 35383
more groups of physicians organized on a group-practice or 35384
individual-practice basis. 35385

(B) As used in this chapter: 35386

(1) ~~"Children's hospital" has the same meaning as in section~~ 35387
~~3702.51 of the Revised Code means any of the following:~~ 35388

(a) A hospital registered under section 3701.07 of the 35389
Revised Code that provides general pediatric medical and surgical 35390
care, and in which at least seventy-five per cent of annual 35391
inpatient discharges for the preceding two calendar years were 35392
individuals less than eighteen years of age; 35393

(b) A distinct portion of a hospital registered under section 35394

3701.07 of the Revised Code that provides general pediatric 35395
medical and surgical care, has a total of at least one hundred 35396
fifty registered pediatric special care and pediatric acute care 35397
beds, and in which at least seventy-five per cent of annual 35398
inpatient discharges for the preceding two calendar years were 35399
individuals less than eighteen years of age; 35400

(c) A distinct portion of a hospital, if the hospital is 35401
registered under section 3701.07 of the Revised Code as a 35402
children's hospital and the children's hospital meets all the 35403
requirements of division (B)(1)(a) of this section. 35404

(2) "Hospital" means an institution classified as a hospital 35405
under section 3701.07 of the Revised Code in which are provided to 35406
inpatients diagnostic, medical, surgical, obstetrical, 35407
psychiatric, or rehabilitation care for a continuous period longer 35408
than twenty-four hours or a hospital operated by a health 35409
maintenance organization. "Hospital" does not include a facility 35410
licensed under Chapter 3721. of the Revised Code, a health care 35411
facility operated by the department of mental health or the 35412
department of developmental disabilities, a health maintenance 35413
organization that does not operate a hospital, the office of any 35414
private licensed health care professional, whether organized for 35415
individual or group practice, or a clinic that provides ambulatory 35416
patient services and where patients are not regularly admitted as 35417
inpatients. "Hospital" also does not include an institution for 35418
the sick that is operated exclusively for patients who use 35419
spiritual means for healing and for whom the acceptance of medical 35420
care is inconsistent with their religious beliefs, accredited by a 35421
national accrediting organization, exempt from federal income 35422
taxation under section 501 of the Internal Revenue Code of 1986, 35423
100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing 35424
twenty-four hour nursing care pursuant to the exemption in 35425
division (E) of section 4723.32 of the Revised Code from the 35426

licensing requirements of Chapter 4723. of the Revised Code. 35427

(3) "Joint commission" means the commission formerly known as 35428
the joint commission on accreditation of healthcare organizations 35429
or the joint commission on accreditation of hospitals. 35430

Sec. 3727.42. (A) Every hospital shall compile and make 35431
available for inspection by the public a price information list 35432
containing the information specified in division (B) of this 35433
section and shall periodically update the list to maintain current 35434
information. The price information list shall be compiled and made 35435
available in a format that complies with the electronic 35436
transaction standards and code sets adopted by the United States 35437
secretary of health and human services under 42 U.S.C. 1320d-2. 35438

(B) Each price information list required by division (A) of 35439
this section shall contain all of the following information: 35440

(1) The usual and customary room and board charges for each 35441
level of care within the hospital, including but not limited to 35442
private rooms, semiprivate rooms, other multiple patient rooms, 35443
and intensive care and other specialty units; 35444

(2) Rates charged for nursing care, if the hospital charges 35445
separately for nursing care; 35446

(3) The usual and customary charges, stated separately for 35447
inpatients and outpatients if different charges are imposed, for 35448
any of the following services provided by the hospital: 35449

(a) The thirty most common x-ray and radiological procedures; 35450

(b) The thirty most common laboratory procedures; 35451

(c) Emergency room services; 35452

(d) Operating room services; 35453

(e) Delivery room services; 35454

(f) Physical, occupational, and pulmonary therapy services; 35455

(g) Any other services designated as high volume services by a rule which shall be adopted by the ~~public~~ director of health council. 35456
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(4) The hospital's billing policies, including whether the hospital charges interest on an amount not paid in full by any person or government entity and the interest rate charged; 35459
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(5) Whether or not the charges listed include fees for the services of hospital-based anesthesiologists, radiologists, pathologists, and emergency room physicians and, if a charge does not include such fees, how such fee information can be obtained. 35462
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(C) Every hospital shall do all of the following with the price information list required by this section: 35466
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(1) At the time of admission, or as soon as practical thereafter, inform each patient of the availability of the list and on request provide the patient with a free copy of the list; 35468
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(2) On request, provide a paper copy of the list to any person or governmental agency, subject to payment of a reasonable fee for copying and processing; 35471
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(3) Make the list available free of charge on the hospital's internet web site. 35474
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Sec. 3729.01. As used in this chapter: 35476

(A) "Camp operator" means the operator of a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp. 35477
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(B) "Campsite user" means a person who enters into a campsite use agreement with a camp operator for the use of a campsite at a recreational vehicle park, recreation camp, combined park-camp, or temporary park-camp. 35480
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(C) "Combined park-camp" means any tract of land upon which a 35484

combination of five or more self-contained recreational vehicles 35485
or portable camping units are placed and includes any roadway, 35486
building, structure, vehicle, or enclosure used or intended for 35487
use as part of the park facilities. A tract of land that is 35488
subdivided for lease or other contract of the individual lots is a 35489
combined park-camp if a combination of five or more recreational 35490
vehicles or portable camping units are placed on it for 35491
recreation, vacation, or business purposes. 35492

"Combined park-camp" does not include any tract of land used 35493
solely as a temporary park-camp or solely as a manufactured home 35494
park. 35495

(D) "Dependent recreational vehicle" means a recreational 35496
vehicle other than a self-contained recreational vehicle. 35497
"Dependent recreational vehicle" includes a park model. 35498

(E) "Development" means any artificial change to improved or 35499
unimproved real estate, including, without limitation, buildings 35500
or structures, dredging, filling, grading, paving, excavation or 35501
drilling operations, or storage of equipment or materials, and the 35502
construction, expansion, or substantial alteration of a 35503
recreational vehicle park, recreation camp, or combined park-camp, 35504
for which plan review is required under division (A) of section 35505
3729.03 of the Revised Code. "Development" does not include the 35506
building, construction, erection, or manufacture of any building 35507
to which section 3781.06 of the Revised Code is applicable. 35508

(F) "Director of health" means the director of health or the 35509
director's authorized representative. 35510

(G) "Flood" or "flooding" means either of the following: 35511

(1) A general and temporary condition of partial or complete 35512
inundation of normally dry land areas from any of the following: 35513

(a) The overflow of inland or tidal waters; 35514

(b) The unusual and rapid accumulation or runoff of surface waters from any source; 35515
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(c) Mudslides that are proximately caused by flooding as defined in division (G)(1)(b) of this section and that are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. 35517
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(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining that is caused by waves or currents of water exceeding anticipated cyclical levels or that is suddenly caused by an unusually high water level in a natural body of water, and that is accompanied by a severe storm, by an unanticipated force of nature, such as a flash flood, by an abnormal tidal surge, or by some similarly unusual and unforeseeable event, that results in flooding as defined in division (G)(1)(a) of this section. 35522
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(H) "Flood plain" means the area adjoining any river, stream, watercourse, or lake that has been or may be covered by flood water. 35531
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(I) "Licensor" means either the board of health of a city or general health district, or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code, or the director of health, when required under division (B) of section 3729.06 of the Revised Code. "Licensor" also means an authorized representative of any of those entities or of the director. 35534
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(J) "Manufactured home park" has the same meaning as in section ~~3733.01~~ 4781.01 of the Revised Code. 35541
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(K) "One-hundred-year flood" means a flood having a one per cent chance of being equaled or exceeded in any given year. 35543
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(L) "One-hundred-year flood plain" means that portion of a 35545

flood plain inundated by a one-hundred-year flood. 35546

(M) "Operator" means the person who has responsible charge of 35547
a recreational vehicle park, recreation camp, combined park-camp, 35548
or temporary park-camp and who is licensed under this chapter. 35549

(N) "Park model" means a recreational vehicle that meets the 35550
American national standard institute standard A119.5(1988) for 35551
park trailers, is built on a single chassis, has a gross trailer 35552
area of not more than four hundred square feet when set up, is 35553
designed for seasonal or temporary living quarters, and may be 35554
connected to utilities necessary for operation of installed 35555
features and appliances. 35556

(O) "Person" has the same meaning as in section 1.59 of the 35557
Revised Code and also includes this state, any political 35558
subdivision of this state, and any other state or local body of 35559
this state. 35560

(P) "Portable camping units" means dependent recreational 35561
vehicles, tents, portable sleeping equipment, and similar camping 35562
equipment used for travel, recreation, vacation, or business 35563
purposes. 35564

(Q) "Recreation camp" means any tract of land upon which five 35565
or more portable camping units are placed and includes any 35566
roadway, building, structure, vehicle, or enclosure used or 35567
intended for use as a part of the facilities of the camp. A tract 35568
of land that is subdivided for lease or other contract of the 35569
individual lots is a recreation camp if five or more portable 35570
camping units are placed on it for recreation, vacation, or 35571
business purposes. 35572

"Recreation camp" does not include any tract of land used 35573
solely for the storage or display for sale of dependent 35574
recreational vehicles, solely as a temporary park-camp, or solely 35575
as a manufactured home park. 35576

(R) "Recreational vehicle" has the same meaning as in section 35577
4501.01 of the Revised Code. 35578

(S) "Recreational vehicle park" means any tract of land used 35579
for parking five or more self-contained recreational vehicles and 35580
includes any roadway, building, structure, vehicle, or enclosure 35581
used or intended for use as part of the park facilities and any 35582
tract of land that is subdivided for lease or other contract of 35583
the individual lots for the express or implied purpose of placing 35584
self-contained recreational vehicles for recreation, vacation, or 35585
business purposes. 35586

"Recreational vehicle park" does not include any tract of 35587
land used solely for the storage or display for sale of 35588
self-contained recreational vehicles, solely as a temporary 35589
park-camp, or solely as a manufactured home park. 35590

(T) "Self-contained recreational vehicle" means a 35591
recreational vehicle that can operate independent of connections 35592
to sewer and water and has plumbing fixtures or appliances all of 35593
which are connected to sewage holding tanks located within the 35594
vehicle. "Self-contained recreational vehicle" includes a park 35595
model. 35596

(U) "Substantially alter" means a change in the layout or 35597
design of a recreational vehicle park, recreation camp, combined 35598
park-camp, or temporary park-camp, including, without limitation, 35599
the movement of utilities or changes in established streets, lots, 35600
or sites or in other facilities. 35601

(V) "Temporary park-camp" means any tract of land used for a 35602
period not to exceed a total of twenty-one days per calendar year 35603
for the purpose of parking five or more recreational vehicles, 35604
dependent recreational vehicles, or portable camping units, or any 35605
combination thereof, for one or more periods of time that do not 35606
exceed seven consecutive days or parts thereof. 35607

(W) "Tract" means a contiguous area of land that consists of 35608
one or more parcels, lots, or sites that have been separately 35609
surveyed regardless of whether the individual parcels, lots, or 35610
sites have been recorded and regardless of whether the one or more 35611
parcels, lots, or sites are under common or different ownership. 35612

Sec. 3729.02. (A) The ~~public~~ director of health council, 35613
subject to Chapter 119. of the Revised Code, shall adopt rules of 35614
uniform application throughout the state governing the review of 35615
plans and issuance of licenses for and the location, layout, 35616
construction, drainage, sanitation, safety, and operation of 35617
recreational vehicle parks, recreation camps, and combined 35618
park-camps. The rules shall not apply to the construction, 35619
erection, or manufacture of any building to which section 3781.06 35620
of the Revised Code is applicable. 35621

(B) The ~~public health council~~ director, subject to Chapter 35622
119. of the Revised Code, shall adopt rules of uniform application 35623
throughout the state governing the review of plans and issuance of 35624
licenses for and the layout, sanitation, safety, and operation of 35625
temporary park-camps. The rules shall not apply to the 35626
construction, erection, or manufacture of any building to which 35627
section 3781.06 of the Revised Code is applicable. 35628

Sec. 3729.03. (A) No person shall cause development to occur 35629
within any portion of a recreational vehicle park, recreation 35630
camp, or combined park-camp until the plans for the development 35631
have been submitted to and reviewed and approved by the director 35632
of health. This division does not require that plans be submitted 35633
to the director for approval for the replacement of recreational 35634
vehicles or portable camping units on previously approved sites in 35635
a recreational vehicle park, recreation camp, or combined 35636
park-camp when no development is to occur in connection with the 35637
replacement. Within thirty days after receipt of the plans, all 35638

supporting documents and materials required to complete the 35639
review, and the applicable plan review fee established under 35640
division (D) of this section, the director shall approve or 35641
disapprove the plans. 35642

(B) Any person aggrieved by the director's disapproval of a 35643
set of plans under division (A) of this section may request a 35644
hearing on the matter within thirty days after receipt of the 35645
director's notice of the disapproval. The hearing shall be held in 35646
accordance with Chapter 119. of the Revised Code. Thereafter, the 35647
disapproval may be appealed in the manner provided in section 35648
119.12 of the Revised Code. 35649

(C) The director shall establish a system by which 35650
development occurring within a recreational vehicle park, 35651
recreation camp, or combined park-camp is inspected or verified in 35652
accordance with rules adopted under division (A) of section 35653
3729.02 of the Revised Code to ensure that the development 35654
complies with the plans approved under division (A) of this 35655
section. 35656

(D) The ~~public health council~~ director shall establish fees 35657
for reviewing plans under division (A) of this section and 35658
conducting inspections under division (C) of this section. 35659

(E) The director shall charge the appropriate fees 35660
established under division (D) of this section for reviewing plans 35661
under division (A) of this section and conducting inspections 35662
under division (C) of this section. All such plan review and 35663
inspection fees received by the director shall be transmitted to 35664
the treasurer of state and shall be credited to the general 35665
operations fund created in section 3701.83 of the Revised Code. 35666
Moneys so credited to the fund shall be used only for the purpose 35667
of administering and enforcing this chapter and rules adopted 35668
under it. 35669

(F) Plan approvals issued under this section do not 35670
constitute an exemption from the land use and building 35671
requirements of the political subdivision in which the 35672
recreational vehicle park, recreation camp, or combined park-camp 35673
is or is to be located. 35674

Sec. 3729.04. (A) No person shall cause development to occur 35675
within any portion of a recreational vehicle park, recreation 35676
camp, combined park-camp, or temporary park-camp that is located 35677
within a one-hundred-year flood plain in a municipal corporation 35678
unless the person first obtains a permit therefor from the 35679
municipal corporation in accordance with the flood plain 35680
management ordinance of the municipal corporation. 35681

(B) No person shall cause development to occur within any 35682
portion of a recreational vehicle park, recreation camp, combined 35683
park-camp, or temporary park-camp that is located within a 35684
one-hundred-year flood plain in an unincorporated area unless the 35685
person first obtains a permit therefor from the board of county 35686
commissioners of the county in which the development is to occur 35687
in accordance with the flood plain management resolution of the 35688
county adopted under section 307.37 of the Revised Code. 35689

(C) If development for which a permit is required under 35690
division (A) or (B) of this section is to occur on a site where a 35691
recreational vehicle or portable camping unit is or is to be 35692
located, the owner of the recreational vehicle or portable camping 35693
unit and the operator of the recreational vehicle park, recreation 35694
camp, or combined park-camp shall jointly obtain the permit. Each 35695
of the persons to whom a permit is jointly issued is responsible 35696
for compliance with the provisions of the approved permit that are 35697
applicable to that person. 35698

If development for which a permit is required under division 35699
(A) or (B) of this section is to occur within a temporary 35700

park-camp on a site where a recreational vehicle or portable 35701
camping unit is or is to be located, the owner of the temporary 35702
park-camp shall obtain the permit. 35703

(D) Fees established by a municipal corporation or county for 35704
the issuance of permits under division (A) or (B) of this section 35705
are not subject to regulation by the ~~public~~ director of health 35706
~~council~~. 35707

Sec. 3729.07. The licensor of a recreational vehicle park, 35708
recreation camp, or combined park-camp may charge a fee for an 35709
annual license to operate such a park, camp, or park-camp. In the 35710
case of a temporary park-camp, the licensor may charge a fee for a 35711
license to operate the temporary park-camp for the period 35712
specified in division (A) of section 3729.05 of the Revised Code. 35713
The fees for both types of licenses shall be determined in 35714
accordance with section 3709.09 of the Revised Code and shall 35715
include the cost of licensing and all inspections. 35716

Except for the fee for a temporary park-camp license, the fee 35717
also shall include any additional amount determined by rule of the 35718
~~public~~ director of health ~~council~~, which shall be collected and 35719
transmitted by the board of health to the director ~~of health~~ 35720
pursuant to section 3709.092 of the Revised Code and used only for 35721
the purpose of administering and enforcing this chapter and rules 35722
adopted under it. The portion of any fee retained by the board of 35723
health shall be paid into a special fund and used only for the 35724
purpose of administering and enforcing this chapter and rules 35725
adopted under it. 35726

Sec. 3729.08. The licensor of the health district in which a 35727
recreational vehicle park, recreation camp, combined park-camp, or 35728
temporary park-camp is or is to be located, in accordance with 35729
Chapter 119. of the Revised Code, may refuse to grant, may 35730

suspend, or may revoke any license granted to any person for 35731
failure to comply with this chapter or with any rule adopted by 35732
the ~~public director of health council~~ under section 3729.02 of the 35733
Revised Code. 35734

Sec. 3730.10. (A) ~~Not later than ninety days after the~~ 35735
~~effective date of this section, the public~~ The director of health 35736
~~council~~ shall adopt rules in accordance with Chapter 119. of the 35737
Revised Code as necessary for the implementation and enforcement 35738
of this chapter. The rules shall include all of the following: 35739

(1) Safety and sanitation standards and procedures to be 35740
followed to prevent the transmission of infectious diseases during 35741
the performance of tattooing and body piercing procedures; 35742

(2) Standards and procedures to be followed for appropriate 35743
disinfection and sterilization of all invasive equipment or parts 35744
of equipment used in tattooing procedures, body piercing 35745
procedures, and ear piercing procedures performed with an ear 35746
piercing gun; 35747

(3) Procedures for suspending and revoking approvals under 35748
section 3730.05 of the Revised Code. 35749

(B) The rules adopted under division (A)(1) of this section 35750
shall establish universal blood and body fluid precautions to be 35751
used by any individual who performs tattooing or body piercing 35752
procedures. The precautions shall include all of the following: 35753

(1) The appropriate use of hand washing; 35754

(2) The handling and disposal of all needles and other sharp 35755
instruments used in tattooing or body piercing procedures; 35756

(3) The wearing and disposal of gloves and other protective 35757
garments and devices. 35758

(C) The rules adopted under division (A) of this section may 35759
include standards and procedures to be followed by a business that 35760

offers tattooing or body piercing services to ensure that the 35761
individuals who perform tattooing or body piercing procedures for 35762
the business are adequately trained to perform the procedures 35763
properly. 35764

Sec. 3733.41. As used in sections 3733.41 to 3733.49 of the 35765
Revised Code: 35766

(A) "Agricultural labor camp" means one or more buildings or 35767
structures, trailers, tents, or vehicles, together with any land 35768
appertaining thereto, established, operated, or used as temporary 35769
living quarters for two or more families or five or more persons 35770
intending to engage in or engaged in agriculture or related food 35771
processing, whether occupancy is by rent, lease, or mutual 35772
agreement. "Agricultural labor camp" does not include a hotel or 35773
motel, or a manufactured home park regulated pursuant to ~~section~~ 35774
~~3733.01~~ sections 4781.26 to 4781.52 of the Revised Code, and rules 35775
adopted thereunder. 35776

(B) "Board of health" means the board of health of a city or 35777
general health district or the authority having the duties of a 35778
board of health in any city as authorized by section 3709.05 of 35779
the Revised Code or an authorized representative of the board of 35780
health. 35781

(C) "Director" means the director of ~~the department of~~ health 35782
or the authorized representative of the director of health. 35783

(D) "Licensor" means the director of health. 35784

(E) "Person" means the state, any political subdivision, 35785
public or private corporation, partnership, association, trust, 35786
individual, or other entity. 35787

~~(F) "Public health council" means the public health council~~ 35788
~~as created by section 3701.33 of the Revised Code.~~ 35789

Sec. 3733.42. The ~~public~~ director of health council, subject 35790
to sections 119.01 to 119.13 of the Revised Code, shall adopt 35791
rules having a uniform application throughout the state, governing 35792
the issuance of licenses, location, layout, construction, approval 35793
of plans, sanitation, safety, operation, use, and maintenance of 35794
agricultural labor camps. The rules shall establish minimum 35795
standards of habitability with which a licensee shall comply in 35796
operating an agricultural labor camp. The rules shall establish, 35797
beyond minimum standards of habitability, additional standards of 35798
habitability for those camps and shall establish priorities for 35799
those additional standards with which a licensee may ~~voluntary~~ 35800
voluntarily comply. 35801

In addition to meeting the requirements of section 119.03 of 35802
the Revised Code, the director of health shall mail a notice of 35803
the date, time, and place of any hearing on the adoption, 35804
amendment, or rescission of such rules and the full text of the 35805
proposed rule, amendment, or rule to be rescinded, at least thirty 35806
days prior to the hearing date, to all persons currently 35807
authorized or licensed to operate camps by the department of 35808
health, or authorized or licensed to operate camps in the previous 35809
calendar year. 35810

Sec. 3734.01. As used in this chapter: 35811

(A) "Board of health" means the board of health of a city or 35812
general health district or the authority having the duties of a 35813
board of health in any city as authorized by section 3709.05 of 35814
the Revised Code. 35815

(B) "Director" means the director of environmental 35816
protection. 35817

(C) "Health district" means a city or general health district 35818
as created by or under authority of Chapter 3709. of the Revised 35819

Code. 35820

(D) "Agency" means the environmental protection agency. 35821

(E) "Solid wastes" means such unwanted residual solid or 35822
semisolid material as results from industrial, commercial, 35823
agricultural, and community operations, excluding earth or 35824
material from construction, mining, or demolition operations, or 35825
other waste materials of the type that normally would be included 35826
in demolition debris, nontoxic fly ash and bottom ash, including 35827
at least ash that results from the combustion of coal and ash that 35828
results from the combustion of coal in combination with scrap 35829
tires where scrap tires comprise not more than fifty per cent of 35830
heat input in any month, spent nontoxic foundry sand, and slag and 35831
other substances that are not harmful or inimical to public 35832
health, and includes, but is not limited to, garbage, scrap tires, 35833
combustible and noncombustible material, street dirt, and debris. 35834
"Solid wastes" does not include any material that is an infectious 35835
waste or a hazardous waste. 35836

(F) "Disposal" means the discharge, deposit, injection, 35837
dumping, spilling, leaking, emitting, or placing of any solid 35838
wastes or hazardous waste into or on any land or ground or surface 35839
water or into the air, except if the disposition or placement 35840
constitutes storage or treatment or, if the solid wastes consist 35841
of scrap tires, the disposition or placement constitutes a 35842
beneficial use or occurs at a scrap tire recovery facility 35843
licensed under section 3734.81 of the Revised Code. 35844

(G) "Person" includes the state, any political subdivision 35845
and other state or local body, the United States and any agency or 35846
instrumentality thereof, and any legal entity defined as a person 35847
under section 1.59 of the Revised Code. 35848

(H) "Open burning" means the burning of solid wastes in an 35849
open area or burning of solid wastes in a type of chamber or 35850

vessel that is not approved or authorized in rules adopted by the 35851
director under section 3734.02 of the Revised Code or, if the 35852
solid wastes consist of scrap tires, in rules adopted under 35853
division (V) of this section or section 3734.73 of the Revised 35854
Code, or the burning of treated or untreated infectious wastes in 35855
an open area or in a type of chamber or vessel that is not 35856
approved in rules adopted by the director under section 3734.021 35857
of the Revised Code. 35858

(I) "Open dumping" means the depositing of solid wastes into 35859
a body or stream of water or onto the surface of the ground at a 35860
site that is not licensed as a solid waste facility under section 35861
3734.05 of the Revised Code or, if the solid wastes consist of 35862
scrap tires, as a scrap tire collection, storage, monocell, 35863
monofill, or recovery facility under section 3734.81 of the 35864
Revised Code; the depositing of solid wastes that consist of scrap 35865
tires onto the surface of the ground at a site or in a manner not 35866
specifically identified in divisions (C)(2) to (5), (7), or (10) 35867
of section 3734.85 of the Revised Code; the depositing of 35868
untreated infectious wastes into a body or stream of water or onto 35869
the surface of the ground; or the depositing of treated infectious 35870
wastes into a body or stream of water or onto the surface of the 35871
ground at a site that is not licensed as a solid waste facility 35872
under section 3734.05 of the Revised Code. 35873

(J) "Hazardous waste" means any waste or combination of 35874
wastes in solid, liquid, semisolid, or contained gaseous form that 35875
in the determination of the director, because of its quantity, 35876
concentration, or physical or chemical characteristics, may do 35877
either of the following: 35878

(1) Cause or significantly contribute to an increase in 35879
mortality or an increase in serious irreversible or incapacitating 35880
reversible illness; 35881

(2) Pose a substantial present or potential hazard to human 35882

health or safety or to the environment when improperly stored, 35883
treated, transported, disposed of, or otherwise managed. 35884

"Hazardous waste" includes any substance identified by 35885
regulation as hazardous waste under the "Resource Conservation and 35886
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 35887
amended, and does not include any substance that is subject to the 35888
"Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as 35889
amended. 35890

(K) "Treat" or "treatment," when used in connection with 35891
hazardous waste, means any method, technique, or process designed 35892
to change the physical, chemical, or biological characteristics or 35893
composition of any hazardous waste; to neutralize the waste; to 35894
recover energy or material resources from the waste; to render the 35895
waste nonhazardous or less hazardous, safer to transport, store, 35896
or dispose of, or amenable for recovery, storage, further 35897
treatment, or disposal; or to reduce the volume of the waste. When 35898
used in connection with infectious wastes, "treat" or "treatment" 35899
means any method, technique, or process designed to render the 35900
wastes noninfectious, including, without limitation, steam 35901
sterilization and incineration, or, in the instance of wastes 35902
identified in division (R)(7) of this section, to substantially 35903
reduce or eliminate the potential for the wastes to cause 35904
lacerations or puncture wounds. 35905

(L) "Manifest" means the form used for identifying the 35906
quantity, composition, origin, routing, and destination of 35907
hazardous waste during its transportation from the point of 35908
generation to the point of disposal, treatment, or storage. 35909

(M) "Storage," when used in connection with hazardous waste, 35910
means the holding of hazardous waste for a temporary period in 35911
such a manner that it remains retrievable and substantially 35912
unchanged physically and chemically and, at the end of the period, 35913
is treated; disposed of; stored elsewhere; or reused, recycled, or 35914

reclaimed in a beneficial manner. When used in connection with 35915
solid wastes that consist of scrap tires, "storage" means the 35916
holding of scrap tires for a temporary period in such a manner 35917
that they remain retrievable and, at the end of that period, are 35918
beneficially used; stored elsewhere; placed in a scrap tire 35919
monocell or monofill facility licensed under section 3734.81 of 35920
the Revised Code; processed at a scrap tire recovery facility 35921
licensed under that section or a solid waste incineration or 35922
energy recovery facility subject to regulation under this chapter; 35923
or transported to a scrap tire monocell, monofill, or recovery 35924
facility, any other solid waste facility authorized to dispose of 35925
scrap tires, or a facility that will beneficially use the scrap 35926
tires, that is located in another state and is operating in 35927
compliance with the laws of the state in which the facility is 35928
located. 35929

(N) "Facility" means any site, location, tract of land, 35930
installation, or building used for incineration, composting, 35931
sanitary landfilling, or other methods of disposal of solid wastes 35932
or, if the solid wastes consist of scrap tires, for the 35933
collection, storage, or processing of the solid wastes; for the 35934
transfer of solid wastes; for the treatment of infectious wastes; 35935
or for the storage, treatment, or disposal of hazardous waste. 35936

(O) "Closure" means the time at which a hazardous waste 35937
facility will no longer accept hazardous waste for treatment, 35938
storage, or disposal, the time at which a solid waste facility 35939
will no longer accept solid wastes for transfer or disposal or, if 35940
the solid wastes consist of scrap tires, for storage or 35941
processing, or the effective date of an order revoking the permit 35942
for a hazardous waste facility or the registration certificate, 35943
permit, or license for a solid waste facility, as applicable. 35944
"Closure" includes measures performed to protect public health or 35945
safety, to prevent air or water pollution, or to make the facility 35946

suitable for other uses, if any, including, but not limited to, 35947
the removal of processing residues resulting from solid wastes 35948
that consist of scrap tires; the establishment and maintenance of 35949
a suitable cover of soil and vegetation over cells in which 35950
hazardous waste or solid wastes are buried; minimization of 35951
erosion, the infiltration of surface water into such cells, the 35952
production of leachate, and the accumulation and runoff of 35953
contaminated surface water; the final construction of facilities 35954
for the collection and treatment of leachate and contaminated 35955
surface water runoff, except as otherwise provided in this 35956
division; the final construction of air and water quality 35957
monitoring facilities, except as otherwise provided in this 35958
division; the final construction of methane gas extraction and 35959
treatment systems; or the removal and proper disposal of hazardous 35960
waste or solid wastes from a facility when necessary to protect 35961
public health or safety or to abate or prevent air or water 35962
pollution. With regard to a solid waste facility that is a scrap 35963
tire facility, "closure" includes the final construction of 35964
facilities for the collection and treatment of leachate and 35965
contaminated surface water runoff and the final construction of 35966
air and water quality monitoring facilities only if those actions 35967
are determined to be necessary. 35968

(P) "Premises" means either of the following: 35969

(1) Geographically contiguous property owned by a generator; 35970

(2) Noncontiguous property that is owned by a generator and 35971
connected by a right-of-way that the generator controls and to 35972
which the public does not have access. Two or more pieces of 35973
property that are geographically contiguous and divided by public 35974
or private right-of-way or rights-of-way are a single premises. 35975

(Q) "Post-closure" means that period of time following 35976
closure during which a hazardous waste facility is required to be 35977
monitored and maintained under this chapter and rules adopted 35978

under it, including, without limitation, operation and maintenance 35979
of methane gas extraction and treatment systems, or the period of 35980
time after closure during which a scrap tire monocell or monofill 35981
facility licensed under section 3734.81 of the Revised Code is 35982
required to be monitored and maintained under this chapter and 35983
rules adopted under it. 35984

(R) "Infectious wastes" includes all of the following 35985
substances or categories of substances: 35986

(1) Cultures and stocks of infectious agents and associated 35987
biologicals, including, without limitation, specimen cultures, 35988
cultures and stocks of infectious agents, wastes from production 35989
of biologicals, and discarded live and attenuated vaccines; 35990

(2) Laboratory wastes that were, or are likely to have been, 35991
in contact with infectious agents that may present a substantial 35992
threat to public health if improperly managed; 35993

(3) Pathological wastes, including, without limitation, human 35994
and animal tissues, organs, and body parts, and body fluids and 35995
excreta that are contaminated with or are likely to be 35996
contaminated with infectious agents, removed or obtained during 35997
surgery or autopsy or for diagnostic evaluation, provided that, 35998
with regard to pathological wastes from animals, the animals have 35999
or are likely to have been exposed to a zoonotic or infectious 36000
agent; 36001

(4) Waste materials from the rooms of humans, or the 36002
enclosures of animals, that have been isolated because of 36003
diagnosed communicable disease that are likely to transmit 36004
infectious agents. Such waste materials from the rooms of humans 36005
do not include any wastes of patients who have been placed on 36006
blood and body fluid precautions under the universal precaution 36007
system established by the centers for disease control in the 36008
public health service of the United States department of health 36009

and human services, except to the extent specific wastes generated 36010
under the universal precautions system have been identified as 36011
infectious wastes by rules adopted under division (R)(8) of this 36012
section. 36013

(5) Human and animal blood specimens and blood products that 36014
are being disposed of, provided that, with regard to blood 36015
specimens and blood products from animals, the animals were or are 36016
likely to have been exposed to a zoonotic or infectious agent. 36017
"Blood products" does not include patient care waste such as 36018
bandages or disposable gowns that are lightly soiled with blood or 36019
other body fluids unless those wastes are soiled to the extent 36020
that the generator of the wastes determines that they should be 36021
managed as infectious wastes. 36022

(6) Contaminated carcasses, body parts, and bedding of 36023
animals that were intentionally exposed to infectious agents from 36024
zoonotic or human diseases during research, production of 36025
biologicals, or testing of pharmaceuticals, and carcasses and 36026
bedding of animals otherwise infected by zoonotic or infectious 36027
agents that may present a substantial threat to public health if 36028
improperly managed; 36029

(7) Sharp wastes used in the treatment, diagnosis, or 36030
inoculation of human beings or animals or that have, or are likely 36031
to have, come in contact with infectious agents in medical, 36032
research, or industrial laboratories, including, without 36033
limitation, hypodermic needles and syringes, scalpel blades, and 36034
glass articles that have been broken; 36035

(8) Any other waste materials generated in the diagnosis, 36036
treatment, or immunization of human beings or animals, in research 36037
pertaining thereto, or in the production or testing of 36038
biologicals, that the ~~public director of health council created in~~ 36039
~~section 3701.33 of the Revised Code~~, by rules adopted in 36040
accordance with Chapter 119. of the Revised Code, identifies as 36041

infectious wastes after determining that the wastes present a 36042
substantial threat to human health when improperly managed because 36043
they are contaminated with, or are likely to be contaminated with, 36044
infectious agents. 36045

(S) "Infectious agent" means a type of microorganism, 36046
helminth, or virus that causes, or significantly contributes to 36047
the cause of, increased morbidity or mortality of human beings. 36048

(T) "Zoonotic agent" means a type of microorganism, helminth, 36049
or virus that causes disease in vertebrate animals and that is 36050
transmissible to human beings and causes or significantly 36051
contributes to the cause of increased morbidity or mortality of 36052
human beings. 36053

(U) "Solid waste transfer facility" means any site, location, 36054
tract of land, installation, or building that is used or intended 36055
to be used primarily for the purpose of transferring solid wastes 36056
that were generated off the premises of the facility from vehicles 36057
or containers into other vehicles for transportation to a solid 36058
waste disposal facility. "Solid waste transfer facility" does not 36059
include any facility that consists solely of portable containers 36060
that have an aggregate volume of fifty cubic yards or less nor any 36061
facility where legitimate recycling activities are conducted. 36062

(V) "Beneficially use" means to use a scrap tire in a manner 36063
that results in a commodity for sale or exchange or in any other 36064
manner authorized as a beneficial use in rules adopted by the 36065
director in accordance with Chapter 119. of the Revised Code. 36066

(W) "Commercial car," "commercial tractor," "farm machinery," 36067
"motor bus," "vehicles," "motor vehicle," and "semitrailer" have 36068
the same meanings as in section 4501.01 of the Revised Code. 36069

(X) "Construction equipment" means road rollers, traction 36070
engines, power shovels, power cranes, and other equipment used in 36071
construction work, or in mining or producing or processing 36072

aggregates, and not designed for or used in general highway transportation. 36073
36074

(Y) "Motor vehicle salvage dealer" has the same meaning as in section 4738.01 of the Revised Code. 36075
36076

(Z) "Scrap tire" means an unwanted or discarded tire. 36077

(AA) "Scrap tire collection facility" means any facility that meets all of the following qualifications: 36078
36079

(1) The facility is used for the receipt and storage of whole scrap tires from the public prior to their transportation to a scrap tire storage, monocell, monofill, or recovery facility licensed under section 3734.81 of the Revised Code; a solid waste incineration or energy recovery facility subject to regulation under this chapter; a premises within the state where the scrap tires will be beneficially used; or a scrap tire storage, monocell, monofill, or recovery facility, any other solid waste disposal facility authorized to dispose of scrap tires, or a facility that will beneficially use the scrap tires, that is located in another state, and that is operating in compliance with the laws of the state in which the facility is located. 36080
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(2) The facility exclusively stores scrap tires in portable containers. 36092
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(3) The aggregate storage of the portable containers in which the scrap tires are stored does not exceed five thousand cubic feet. 36094
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36096

(BB) "Scrap tire monocell facility" means an individual site within a solid waste landfill that is used exclusively for the environmentally sound storage or disposal of whole scrap tires or scrap tires that have been shredded, chipped, or otherwise mechanically processed. 36097
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(CC) "Scrap tire monofill facility" means an engineered 36102

facility used or intended to be used exclusively for the storage 36103
or disposal of scrap tires, including at least facilities for the 36104
submergence of whole scrap tires in a body of water. 36105

(DD) "Scrap tire recovery facility" means any facility, or 36106
portion thereof, for the processing of scrap tires for the purpose 36107
of extracting or producing usable products, materials, or energy 36108
from the scrap tires through a controlled combustion process, 36109
mechanical process, or chemical process. "Scrap tire recovery 36110
facility" includes any facility that uses the controlled 36111
combustion of scrap tires in a manufacturing process to produce 36112
process heat or steam or any facility that produces usable heat or 36113
electric power through the controlled combustion of scrap tires in 36114
combination with another fuel, but does not include any solid 36115
waste incineration or energy recovery facility that is designed, 36116
constructed, and used for the primary purpose of incinerating 36117
mixed municipal solid wastes and that burns scrap tires in 36118
conjunction with mixed municipal solid wastes, or any tire 36119
retreading business, tire manufacturing finishing center, or tire 36120
adjustment center having on the premises of the business a single, 36121
covered scrap tire storage area at which not more than four 36122
thousand scrap tires are stored. 36123

(EE) "Scrap tire storage facility" means any facility where 36124
whole scrap tires are stored prior to their transportation to a 36125
scrap tire monocell, monofill, or recovery facility licensed under 36126
section 3734.81 of the Revised Code; a solid waste incineration or 36127
energy recovery facility subject to regulation under this chapter; 36128
a premises within the state where the scrap tires will be 36129
beneficially used; or a scrap tire storage, monocell, monofill, or 36130
recovery facility, any other solid waste disposal facility 36131
authorized to dispose of scrap tires, or a facility that will 36132
beneficially use the scrap tires, that is located in another 36133
state, and that is operating in compliance with the laws of the 36134

state in which the facility is located. 36135

(FF) "Used oil" means any oil that has been refined from 36136
crude oil, or any synthetic oil, that has been used and, as a 36137
result of that use, is contaminated by physical or chemical 36138
impurities. "Used oil" includes only those substances identified 36139
as used oil by the United States environmental protection agency 36140
under the "Used Oil Recycling Act of 1980," 94 Stat. 2055, 42 36141
U.S.C.A. 6901a, as amended. 36142

(GG) "Accumulated speculatively" has the same meaning as in 36143
rules adopted by the director under section 3734.12 of the Revised 36144
Code. 36145

Sec. 3734.131. (A)(1) Except as provided in divisions (D)(1) 36146
and (2) of this section, no person shall transport any solid 36147
wastes from outside this state to a solid waste facility in this 36148
state unless that person has first irrevocably consented in 36149
writing to the jurisdiction of the courts of this state and 36150
service of process in this state, including, without limitation, 36151
summonses and subpoenas, for any civil or criminal proceeding 36152
arising out of or relating to the wastes that are shipped to a 36153
facility in this state. 36154

(2) The original of the consent-to-jurisdiction document 36155
shall be legible and shall be filed with the director of 36156
environmental protection on a form provided by the director. A 36157
legible copy of the completed document shall be filed with the 36158
owner or operator of each solid waste facility to which the wastes 36159
are transported. A consent-to-jurisdiction document applies only 36160
to shipments into this state of wastes described in division 36161
(A)(1) of this section. 36162

(3) All consent-to-jurisdiction documents required under 36163
division (A)(1) or (3) of this section shall be refiled during the 36164
month of December, 1995, and during the month of December of every 36165

fourth year thereafter. Except as provided in division (D)(1) of 36166
this section, after December 31, 1995, or after the thirty-first 36167
day of December of every fourth year thereafter, whichever is 36168
applicable, no person shall continue to transport any solid wastes 36169
from outside this state to a solid waste facility in this state 36170
unless the person refiles with the director and the owner or 36171
operator of each facility to which the wastes are transported 36172
consent-to-jurisdiction documents, in the manner prescribed in 36173
division (A)(2) of this section, during the month of December next 36174
preceding the period for which the refiled document is required. 36175

(4) If the address of a person changes from that listed on 36176
the current consent-to-jurisdiction document filed under division 36177
(A)(1) or (3) of this section, the person shall file amended 36178
consent-to-jurisdiction documents containing the new address with 36179
the director and the owner or operator of each facility to which 36180
the wastes are transported. 36181

(5)(a) Except as provided in division (D)(1) of this section, 36182
no person identified in divisions (D)(2)(a) to (d) of this section 36183
shall transport any solid wastes from outside this state to a 36184
solid waste facility in this state unless the person has first 36185
filed a notification and authorization document naming the 36186
person's agent who is authorized to accept service of process in 36187
this state, including, without limitation, summonses and 36188
subpoenas, for any civil or criminal proceeding arising out of or 36189
relating to the wastes that are shipped to a facility in this 36190
state. 36191

The original of the notification and authorization document 36192
shall be legible and shall be filed with the director on a form 36193
provided by the director. A legible copy of the completed document 36194
shall be filed with the owner or operator of each solid waste 36195
facility to which the wastes are transported. 36196

(b) All notification and authorization documents required 36197

under division (A)(5) of this section shall be refiled during the 36198
month of December, 1995, and during the month of December of every 36199
fourth year thereafter. Except as provided in division (D)(1) of 36200
this section, after December 31, 1995, or after the thirty-first 36201
day of December of every fourth year thereafter, whichever is 36202
applicable, no person identified in divisions (D)(2)(a) to (d) of 36203
this section shall continue to transport any solid wastes from 36204
outside this state to a solid waste facility in this state unless 36205
the person refiles with the director and the owner or operator of 36206
each facility to which the wastes are transported notification and 36207
authorization documents, in the manner prescribed in division 36208
(A)(5)(a) of this section, during the month of December next 36209
preceding the period for which the refiled document is required. 36210

(c) If a person's agent or the address of a person's agent 36211
changes from that listed on the current notification and 36212
authorization document filed under division (A)(5)(a) or (b) of 36213
this section, the person shall file amended notification and 36214
authorization documents containing the name and address of the new 36215
agent or the agent's new address with the director and the owner 36216
or operator of each facility to which the wastes are transported. 36217

(B) A person who enters this state pursuant to a summons, 36218
subpoena, or other form of process authorized by this section is 36219
not subject to arrest or the service of process, whether civil or 36220
criminal, in connection with other matters that arose before his 36221
entrance into this state pursuant to the summons, subpoena, or 36222
other form of process authorized by this section. 36223

(C)(1) Except as provided in division (D)(1) of this section, 36224
no owner, operator, or employee of a solid waste facility shall 36225
accept for treatment, transfer, storage, or disposal at the 36226
facility any solid wastes from outside the boundaries of this 36227
state unless the facility has received a copy of the 36228
consent-to-jurisdiction document or notification and authorization 36229

document required under this section and applicable to the wastes. 36230

(2) The owner or operator of a solid waste facility shall 36231
keep the consent-to-jurisdiction documents and the notification 36232
and authorization documents filed with him under this section at 36233
the facility in such a location and manner that they are readily 36234
accessible to the director or his authorized representative, and 36235
the board of health having jurisdiction over the facility and its 36236
authorized representative, for the purposes of sections 3734.07 36237
and 3734.10 of the Revised Code. 36238

(D)(1) Divisions (A), (B), and (C) of this section do not 36239
apply to the transportation, transfer, or disposal of solid wastes 36240
from residential premises located less than ten miles outside the 36241
boundaries of this state. 36242

(2) Divisions (A)(1) to (4) of this section do not apply to 36243
any of the following: 36244

(a) A corporation incorporated under the laws of this state 36245
that has appointed a statutory agent pursuant to section 1701.07 36246
of the Revised Code; 36247

(b) A foreign corporation licensed to transact business in 36248
this state that has appointed a designated agent pursuant to 36249
section 1703.041 of the Revised Code; 36250

(c) A ~~nonresident~~ motor carrier ~~that has designated an agent~~ 36251
~~pursuant to, as defined in section 4919.77~~ 4923.01 of the Revised 36252
Code, that is a nonresident; 36253

(d) Any other person who is a resident of this state. 36254

Sec. 3734.15. (A) No person shall transport hazardous waste 36255
anywhere in this state unless ~~he~~ the person has first registered 36256
with and obtained a uniform permit from the public utilities 36257
commission in accordance with ~~section 4905.80~~ Chapter 4921. of the 36258
Revised Code. 36259

For the purposes of this section, "registered transporter" 36260
means any person who is registered with and has received a uniform 36261
permit from the public utilities commission pursuant to ~~section~~ 36262
~~4905.80~~ Chapter 4921. of the Revised Code. 36263

(B) A registered transporter of hazardous waste shall be 36264
responsible for the safe delivery of any hazardous waste that ~~he~~ 36265
the registered transporter transports from such time as ~~he~~ the 36266
registered transporter obtains the waste until ~~he~~ the registered 36267
transporter delivers it to a treatment, storage, or disposal 36268
facility specified in division (F) of section 3734.02 of the 36269
Revised Code, as recorded on the manifest required in division (B) 36270
of section 3734.12 of the Revised Code. Any registered transporter 36271
who violates this chapter or any rule adopted under the chapter 36272
while transporting hazardous waste shall be liable for any damage 36273
or injury caused by the violation and for the costs of rectifying 36274
the violation and conditions caused by the violation. 36275

(C) No person who generates hazardous waste shall cause the 36276
waste to be transported by any person who is not a registered 36277
transporter. No person shall accept for treatment, storage, or 36278
disposal any hazardous waste from an unregistered transporter. Any 36279
person who is requested to accept such waste for treatment, 36280
storage, or disposal shall notify the director, the board of 36281
health in ~~his~~ the person's location, and the public utilities 36282
commission of the request. 36283

If a generator causes an unregistered transporter to 36284
transport the hazardous waste, the generator of the waste, the 36285
transporter, and any person who accepts the waste for treatment, 36286
storage, or disposal shall be jointly and severally liable for any 36287
damage or injury caused by the handling of the waste and for the 36288
costs of rectifying their violation and conditions caused by their 36289
violation. 36290

Sec. 3734.51. There is hereby created within the 36291
environmental protection agency the solid waste management 36292
advisory council consisting of the directors of environmental 36293
protection, and development, ~~and natural resources~~, or their 36294
designees, as members ex officio, one member of the senate to be 36295
appointed by the president of the senate, one member of the house 36296
of representatives to be appointed by the speaker of the house of 36297
representatives, and fourteen members to be appointed by the 36298
governor with the advice and consent of the senate. Of the 36299
appointed members, one shall be an employee of a health district 36300
whose duties include enforcement of the solid waste provisions of 36301
this chapter, two shall represent the interests of counties, two 36302
shall represent the interests of municipal corporations, two shall 36303
represent the interests of townships, one shall represent the 36304
interests of county solid waste management districts, one shall 36305
represent the interests of joint solid waste management districts, 36306
one shall represent the interests of industrial generators of 36307
solid wastes, one shall be from the private recycling industry, 36308
one shall be from the private solid waste management industry, one 36309
shall be from a statewide environmental advocacy organization, and 36310
one shall represent the public. ~~Within ninety days after June 24,~~ 36311
~~1988, the governor shall make the initial appointments to the~~ 36312
~~advisory council. Of those initial appointments, six shall be for~~ 36313
~~a term ending June 24, 1989, and six shall be for a term ending~~ 36314
~~June 24, 1990. The governor shall make the initial appointments to~~ 36315
~~the advisory council of the members representing county and joint~~ 36316
~~solid waste management districts within ninety days after the~~ 36317
~~effective date of this amendment. Of the initial appointments of~~ 36318
~~the members representing solid waste management districts, one~~ 36319
~~shall be for a term ending June 24, 1993, and one shall be for a~~ 36320
~~term ending June 24, 1994. Thereafter, terms Terms of office shall~~ 36321
be for two years with each term ending on the same day of the same 36322

month as did the term that it succeeds. Each member shall hold 36323
office from the date of ~~his~~ appointment until the end of the term 36324
for which ~~he~~ the member was appointed. Members may be reappointed. 36325
Vacancies shall be filled in the manner provided for original 36326
appointments. Any member appointed to fill a vacancy occurring 36327
prior to the expiration of the term for which ~~his~~ the member's 36328
predecessor was appointed shall hold office for the remainder of 36329
that term. A member shall continue in office subsequent to the 36330
expiration of ~~his~~ the member's term or until a period of sixty 36331
days has elapsed, whichever occurs first. 36332

The advisory council shall hold at least four regular 36333
quarterly meetings each year. Special meetings may be held at the 36334
behest of the ~~chairman~~ chairperson or a majority of the members. 36335
The director of environmental protection shall serve as ~~chairman~~ 36336
chairperson of the advisory council. The advisory council annually 36337
shall select from among its members a vice-~~chairman~~ chairperson 36338
and a secretary to keep a record of its proceedings. A majority 36339
vote of the members of the advisory council is necessary to take 36340
action on any matter. 36341

Serving as an appointed member of the advisory council does 36342
not constitute holding a public office or position of employment 36343
under the laws of this state and does not constitute grounds for 36344
removal of public officers or employees from their offices or 36345
positions of employment. The governor may remove an appointed 36346
member of the advisory council at any time for misfeasance, 36347
nonfeasance, or malfeasance in office. 36348

Appointed members of the advisory council shall serve without 36349
compensation for attending council meetings. Members of the 36350
advisory council shall be reimbursed for their actual and 36351
necessary expenses incurred in the performance of their duties as 36352
members of the council from moneys appropriated to the 36353
environmental protection agency for administration and enforcement 36354

of the solid waste provisions of this chapter. 36355

The advisory council shall do all of the following: 36356

(A) Advise and assist the director of environmental 36357
protection with preparation of the state solid waste management 36358
plan and periodic revisions to the plan under section 3734.50 of 36359
the Revised Code; 36360

(B) Approve or disapprove the draft state solid waste 36361
management plan and periodic revisions prior to adoption of the 36362
plan under section 3734.50 of the Revised Code; 36363

(C) Annually review implementation of the state solid waste 36364
management plan and the solid waste management plans of county and 36365
joint solid waste management districts approved or ordered to be 36366
implemented under section 3734.521 or 3734.55 of the Revised Code 36367
or amendments to those plans approved or ordered to be implemented 36368
under section 3734.521 or 3734.56 of the Revised Code, and report 36369
its findings to the director. 36370

Sec. 3734.55. (A) Upon completion of its draft solid waste 36371
management plan under section 3734.54 of the Revised Code, the 36372
solid waste management policy committee of a county or joint solid 36373
waste management district shall send a copy of the draft plan to 36374
the director of environmental protection for preliminary review 36375
and comment. Within forty-five days after receiving the draft 36376
plan, the director shall provide the committee with a written, 36377
nonbinding advisory opinion regarding the draft plan and any 36378
recommended changes to it that the director considers necessary to 36379
effect its approval. After receipt of the director's written 36380
opinion, the committee may make such revisions to the draft plan 36381
based on the director's opinion as it considers appropriate. Upon 36382
receipt of the director's opinion and after making any such 36383
revisions to the draft plan, the committee shall prepare and 36384
publish in at least one newspaper of general circulation within 36385

the county or joint district a public notice that describes the 36386
draft plan, specifies the location where it is available for 36387
review, and establishes a period of thirty days for comments 36388
concerning the draft plan. The committee shall send written notice 36389
of the draft plan to adjacent county and joint districts and shall 36390
make it available for review by those districts, by the board of 36391
county commissioners of each county forming the district, by all 36392
municipal corporations and townships within the county or joint 36393
district, and by the public. The committee also shall send written 36394
notice of the plan to the director and to the fifty industrial, 36395
commercial, or institutional generators of solid wastes within the 36396
district that generate the largest quantities of solid wastes, as 36397
determined by the board, and their local trade associations. The 36398
board shall make good faith efforts to identify those generators 36399
within the district and their local trade associations, but the 36400
nonprovision of notice under this division to a particular 36401
industrial, commercial, or institutional generator or local trade 36402
association does not invalidate the proceedings under this 36403
section. All such written notices shall include the date, time, 36404
and location of the public hearing; the dates when the comment 36405
period begins and ends; and a description of the plan that 36406
includes, without limitation, the proposed amount of the fees to 36407
be levied under the plan pursuant to division (B) of section 36408
3734.57 or division (A) of section 3734.573 of the Revised Code, 36409
if any, and an indication as to whether the provision required to 36410
be included in the plan under division (E)(1) of section 3734.53 36411
of the Revised Code authorizes the board of county commissioners 36412
or directors of the district to establish, or precludes the board 36413
from establishing, facility designations under section 343.014 of 36414
the Revised Code. Within fifteen days after expiration of the 36415
comment period, the committee shall conduct a public hearing 36416
concerning the draft plan and, at least fifteen days before the 36417
hearing, shall publish in at least one newspaper of general 36418

circulation within the county or joint district a notice 36419
containing the time and place of the hearing and the location 36420
where the draft plan is available for review. 36421

(B) After the public hearing, the committee may modify the 36422
draft plan based upon the public's comments and shall adopt or 36423
reject it by a majority vote. Within thirty days after adoption of 36424
the draft plan, the committee shall deliver a copy of it to the 36425
board of county commissioners of each county forming the district 36426
and to the legislative authority of each municipal corporation and 36427
township under the jurisdiction of the district. Within ninety 36428
days after receiving a copy of the draft plan adopted by the 36429
committee, each such board and legislative authority shall approve 36430
or disapprove the draft plan, by ordinance or resolution, and 36431
deliver a copy of the ordinance or resolution to the committee. 36432

The solid waste management policy committee of a county 36433
district or a joint district formed by two or three counties shall 36434
declare the draft plan to be ratified as the solid waste 36435
management plan of the district upon determining that the board of 36436
county commissioners of each county forming the district has 36437
approved the draft plan and that the legislative authorities of a 36438
combination of municipal corporations and townships with a 36439
combined population within the county or joint district comprising 36440
at least sixty per cent of the total population of the district 36441
have approved the draft plan, provided that in the case of a 36442
county district, that combination shall include the municipal 36443
corporation having the largest population within the boundaries of 36444
the district, and provided further that in the case of a joint 36445
district formed by two or three counties, that combination shall 36446
include for each county forming the joint district the municipal 36447
corporation having the largest population within the boundaries of 36448
both the county in which the municipal corporation is located and 36449
the joint district. The solid waste management policy committee of 36450

a joint district formed by four or more counties shall declare the draft plan to be ratified as the solid waste management plan of the joint district upon determining that the boards of county commissioners of a majority of the counties forming the district have approved the draft plan; that, in each of a majority of the counties forming the joint district, the draft plan has been approved by the municipal corporation having the largest population within the county and the joint district; and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the joint district comprising at least sixty per cent of the total population of the joint district have approved the draft plan.

For the purposes of this division and division (C)(2) of this section, only the population of the unincorporated area of a township shall be considered. For the purpose of determining the largest municipal corporation within each county under this division and division (C)(2) of this section, a municipal corporation that is located in more than one solid waste management district, but that is under the jurisdiction of one county or joint solid waste management district in accordance with division (A) of section 3734.52 of the Revised Code shall be considered to be within the boundaries of the county in which a majority of the population of the municipal corporation resides.

(C)(1) Upon ratification of the draft plan under division (B) of this section, the committee shall submit it to the director for review and approval for compliance with the requirements of divisions (A), (B), (D), and (E)(1) of section 3734.53 of the Revised Code. The director, by order, shall approve or disapprove the plan within ninety days after its submission. The director shall include with an order disapproving a plan a statement outlining the deficiencies in the plan and directing the committee to submit, within ninety days after issuance of the order, a

revised plan that remedies those deficiencies, except that if the 36483
committee, by resolution, requests an extension of the time for 36484
submission of a revised plan, the director, for good cause shown, 36485
may grant one such extension for a period of not more than sixty 36486
additional days. 36487

(2) Within sixty days after issuance of the order 36488
disapproving its plan, the committee shall prepare a draft revised 36489
plan, adopt a draft revised plan by a majority vote, and deliver a 36490
copy of the draft revised plan to the board of county 36491
commissioners of each county forming the district and to the 36492
legislative authority of each municipal corporation and township 36493
under the jurisdiction of the district. Within twenty-one days 36494
after the delivery of the draft revised plan, each such board and 36495
legislative authority shall approve or disapprove the draft 36496
revised plan, by ordinance or resolution, and deliver a copy of 36497
the ordinance or resolution to the committee. In the case of a 36498
county district or a joint district formed by two or three 36499
counties, the committee shall declare the draft revised plan to be 36500
ratified as the solid waste management plan of the county or joint 36501
district upon determining that the board of county commissioners 36502
of each county forming the district has approved the draft revised 36503
plan and that the legislative authorities of a combination of 36504
municipal corporations and townships with a combined population 36505
within the district comprising at least sixty per cent of the 36506
total population of the district have approved the draft revised 36507
plan, provided that in the case of a county district, that 36508
combination shall include the municipal corporation having the 36509
largest population within the boundaries of the district, and 36510
provided further that in the case of a joint district formed by 36511
two or three counties, that combination shall include for each 36512
county forming the joint district the municipal corporation having 36513
the largest population within the boundaries of both the county in 36514
which the municipal corporation is located and the joint district. 36515

In the case of a joint district formed by four or more counties, 36516
the committee shall declare the draft revised plan to be ratified 36517
as the solid waste management plan of the joint district upon 36518
determining that the boards of county commissioners of a majority 36519
of the counties forming the district have approved the draft 36520
revised plan; that, in each of a majority of the counties forming 36521
the joint district, the draft revised plan has been approved by 36522
the municipal corporation having the largest population within the 36523
county and the joint district; and that the legislative 36524
authorities of a combination of municipal corporations and 36525
townships with a combined population within the joint district 36526
comprising at least sixty per cent of the total population of the 36527
joint district have approved the draft revised plan. Upon 36528
ratification of the draft revised plan, the committee shall submit 36529
it to the director for approval in accordance with division (C)(1) 36530
of this section. The director, by order, shall approve or 36531
disapprove the draft revised plan within thirty days after 36532
receiving it. 36533

(3) Notwithstanding section 119.06 of the Revised Code, the 36534
director may approve or disapprove a plan or revised plan 36535
submitted under division (C)(1) or (2) of this section by issuance 36536
of a final order that is effective upon issuance, without the 36537
necessity to hold any adjudication hearing in connection with the 36538
order and without issuance of a proposed action under section 36539
3745.07 of the Revised Code. In any appeal taken under section 36540
3745.04 of the Revised Code pertaining to the director's 36541
disapproval of the solid waste management plan or revised plan of 36542
a county or joint district, the solid waste management policy 36543
committee of the county or joint district and the director shall 36544
be the parties. Upon a showing by the policy committee that there 36545
is a substantial likelihood that it will prevail on the merits, 36546
the environmental review appeals commission, within thirty days 36547
after filing of the notice of appeal under that section and 36548

pending final determination of the appeal, may grant temporary relief from the director's order disapproving the district's plan, including the issuance of appropriate orders to the director to refrain from acting under division (D) of this section.

(4) After approval of the plan or revised plan by the director, the board of county commissioners of a county district or board of directors of a joint district shall implement the plan in compliance with the implementation schedule contained in the approved plan.

The committee annually shall review implementation of the plan approved under this section or section 3734.521 of the Revised Code and subsequent amended plans approved under section 3734.521 or 3734.56 of the Revised Code and report its findings and recommendations regarding implementation of the plan to the board of county commissioners or board of directors of the district.

(D) If the director finds that a county or joint solid waste management district has failed to obtain approval of its solid waste management plan within eighteen months after the applicable date prescribed for submission of its plan under division (A) of section 3734.54 of the Revised Code or within twenty-four months after that date if the date for submission was extended under that division, the director shall prepare a solid waste management plan for the county or joint district that complies with divisions (A) and (D) of section 3734.53 of the Revised Code. The plan shall not contain any of the provisions required or authorized to be included in plans submitted by districts under division (B), (C), or (E) of that section. Upon completion of the plan, the director shall issue an order in accordance with Chapter 3745. of the Revised Code directing the board of county commissioners or board of directors of the district to implement the plan in compliance with the implementation schedule contained in it.

Within thirty days after the effective date of the order to 36581
implement the plan, the board of county commissioners or board of 36582
directors of the district shall determine whether the solid waste 36583
management policy committee of the district should continue to 36584
exist to monitor implementation of the plan or for the purposes of 36585
division (B) of section 3734.57 or section 3734.574 of the Revised 36586
Code. The board, by resolution, may abolish the committee if it 36587
determines that the committee is not necessary for any of those 36588
purposes. If the board of county commissioners or directors of a 36589
district that has so abolished the policy committee of the 36590
district finds that it is necessary or appropriate for the 36591
district to consider levying fees under section 3734.574 of the 36592
Revised Code, the board shall reestablish and convene the policy 36593
committee to initiate proceedings to levy the fees. If the fees 36594
are levied, the policy committee shall continue to exist for as 36595
long as the district is levying the fees. If, after a policy 36596
committee is convened to initiate proceedings to levy those fees, 36597
the fees are not levied or are abolished under section 3734.574 of 36598
the Revised Code, the board, by resolution, may abolish the 36599
committee if it determines that the committee is not necessary to 36600
monitor implementation of the plan. 36601

(E) If the director finds that the board of county 36602
commissioners or the board of directors of a district has 36603
materially failed to implement the district's plan or amended plan 36604
approved under division (C) of this section or section 3734.521 or 36605
3734.56 of the Revised Code, or prepared and ordered to be 36606
implemented under division (D) of this section or section 3734.521 36607
or 3734.56 of the Revised Code, in compliance with the 36608
implementation schedule contained in the plan or amended plan, the 36609
director shall issue an enforcement order under division (A) of 36610
section 3734.13 of the Revised Code directing the board to comply 36611
with the implementation schedule in the plan or amended plan 36612
within a specified, reasonable time. If the director finds that 36613

the board of county commissioners or directors of a district for 36614
which the provision included in the district's initial or amended 36615
plan approved under section 3734.521, 3734.55, or 3734.56 of the 36616
Revised Code pursuant to division (E)(1) or (2)(b) or (c) of 36617
section 3734.53 of the Revised Code, or an amendment to the 36618
district's approved initial or amended plan adopted and ratified 36619
under division (F) of section 3734.56 of the Revised Code, 36620
precludes the board from establishing facility designations under 36621
section 343.014 of the Revised Code has initiated proceedings to 36622
establish facility designations in violation of that section and 36623
the district's initial or amended plan, the director shall issue 36624
an enforcement order under division (A) of section 3734.13 of the 36625
Revised Code directing the board, at the board's discretion, to 36626
either abandon the proceedings or suspend them until after the 36627
board has adopted and obtained ratification of an amendment to the 36628
district's initial or amended plan under division (F) of section 36629
3734.56 of the Revised Code that authorizes the board to establish 36630
facility designations under section 343.014 of the Revised Code. 36631
If the director finds that a board of county commissioners or 36632
directors of a district for which the provision included in the 36633
district's initial or amended plan approved under section 36634
3734.521, 3734.55, or 3734.56 of the Revised Code pursuant to 36635
division (E)(1) or (2)(b) or (c) of section 3734.53 of the Revised 36636
Code, or an amendment to the district's approved initial or 36637
amended plan adopted and ratified under division (F) of section 36638
3734.56 of the Revised Code, authorizes the board to establish 36639
facility designations under section 343.014 of the Revised Code 36640
has established facility designations under section 343.014 of the 36641
Revised Code or continued facility designations under section 36642
343.015 of the Revised Code and subsequently has initiated 36643
proceedings to terminate any such facility designations in 36644
violation of section 343.014 of the Revised Code and the 36645
district's initial or amended plan, the director shall issue an 36646

enforcement order under division (A) of section 3734.13 of the Revised Code directing the board, at the board's discretion, to either abandon the proceedings or adopt and obtain ratification of an amendment to the district's initial or amended plan under division (F) of section 3734.56 of the Revised Code that precludes the board from establishing facility designations under section 343.014 of the Revised Code.

(F) The director shall maintain a record of the county and joint solid waste management district solid waste management plans and amended plans that the director has approved or ordered to be implemented under this section, section 3734.521, and section 3734.56 of the Revised Code. ~~Upon determining that each county within the state is subject to such a plan or amended plan, the director shall notify the chief of recycling and litter prevention in the department of natural resources of that fact.~~

(G)(1) As used in divisions (C)(4), (D)(1) and (2), and (E) of this section and section 3734.521 of the Revised Code, any reference to a board of county commissioners of a county or a board of directors of a joint solid waste management district is deemed to include the board of trustees of a regional solid waste management authority formed under section 343.011 of the Revised Code.

(2) As used in this section and sections 3734.521 and 3734.57 of the Revised Code, "deliver" includes mailing as well as delivery by a means other than mailing.

Sec. 3734.79. (A) Except as provided in division (B) of this section, each application for a permit submitted under sections 3734.76 to 3734.78 of the Revised Code shall be accompanied by a nonrefundable application fee of four hundred dollars that shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code. If a permit is issued, the amount of

the application fee paid shall be deducted from the amount of the 36678
applicable permit fee due under division ~~(G)~~(R) of section 3745.11 36679
of the Revised Code. 36680

(B) Division (A) of this section does not apply to an 36681
application for a permit for a scrap tire storage facility 36682
submitted under section 3734.76 of the Revised Code if the owner 36683
or operator of the facility or proposed facility is a motor 36684
vehicle salvage dealer licensed under Chapter 4738. of the Revised 36685
Code. 36686

Sec. 3734.82. (A) The annual fee for a scrap tire recovery 36687
facility license issued under section 3734.81 of the Revised Code 36688
shall be in accordance with the following schedule: 36689

Daily Design	Annual	
Input Capacity	License	
(Tons)	Fee	
1 or less	\$ 100	36693
2 to 25	500	36694
26 to 50	1,000	36695
51 to 100	1,500	36696
101 to 200	2,500	36697
201 to 500	3,500	36698
501 or more	5,500	36699

For the purpose of determining the applicable license fee 36700
under this division, the daily design input capacity shall be the 36701
quantity of scrap tires the facility is designed to process daily 36702
as set forth in the registration certificate or permit for the 36703
facility, and any modifications to the permit, if applicable, 36704
issued under section 3734.78 of the Revised Code. 36705

(B) The annual fee for a scrap tire monocell or monofill 36706
facility license shall be in accordance with the following 36707
schedule: 36708

Authorized Maximum	Annual	36709
Daily Waste Receipt	License	36710
(Tons)	Fee	36711
100 or less	\$ 5,000	36712
101 to 200	12,500	36713
201 to 500	30,000	36714
501 or more	60,000	36715

For the purpose of determining the applicable license fee 36716
under this division, the authorized maximum daily waste receipt 36717
shall be the maximum amount of scrap tires the facility is 36718
authorized to receive daily that is established in the permit for 36719
the facility, and any modification to that permit, issued under 36720
section 3734.77 of the Revised Code. 36721

(C)(1) Except as otherwise provided in division (C)(2) of 36722
this section, the annual fee for a scrap tire storage facility 36723
license shall equal one thousand dollars times the number of acres 36724
on which scrap tires are to be stored at the facility during the 36725
license year, as set forth on the application for the annual 36726
license, except that the total annual license fee for any such 36727
facility shall not exceed three thousand dollars. 36728

(2) The annual fee for a scrap tire storage facility license 36729
for a storage facility that is owned or operated by a motor 36730
vehicle salvage dealer licensed under Chapter 4738. of the Revised 36731
Code is one hundred dollars. 36732

(D)(1) Except as otherwise provided in division (D)(2) of 36733
this section, the annual fee for a scrap tire collection facility 36734
license is two hundred dollars. 36735

(2) The annual fee for a scrap tire collection facility 36736
license for a collection facility that is owned or operated by a 36737
motor vehicle salvage dealer licensed under Chapter 4738. of the 36738
Revised Code is fifty dollars. 36739

(E) Except as otherwise provided in divisions (C)(2) and 36740
(D)(2) of this section, the same fees apply to private operators 36741
and to the state and its political subdivisions and shall be paid 36742
within thirty days after the issuance of a license. The fees 36743
include the cost of licensing, all inspections, and other costs 36744
associated with the administration of the scrap tire provisions of 36745
this chapter and rules adopted under them. Each license shall 36746
specify that it is conditioned upon payment of the applicable fee 36747
to the board of health or the director of environmental 36748
protection, as appropriate, within thirty days after the issuance 36749
of the license. 36750

(F) The board of health shall retain fifteen thousand dollars 36751
of each license fee collected by the board under division (B) of 36752
this section, or the entire amount of any such fee that is less 36753
than fifteen thousand dollars, and the entire amount of each 36754
license fee collected by the board under divisions (A), (C), and 36755
(D) of this section. The moneys retained shall be paid into a 36756
special fund, which is hereby created in each health district, and 36757
used solely to administer and enforce the scrap tire provisions of 36758
this chapter and rules adopted under them. The remainder, if any, 36759
of each license fee collected by the board under division (B) of 36760
this section shall be transmitted to the director within 36761
forty-five days after receipt of the fee. 36762

(G) The director shall transmit the moneys received by the 36763
director from license fees collected under division (B) of this 36764
section to the treasurer of state to be credited to the scrap tire 36765
management fund, which is hereby created in the state treasury. 36766
The fund shall consist of all federal moneys received by the 36767
environmental protection agency for the scrap tire management 36768
program; all grants, gifts, and contributions made to the director 36769
for that program; and all other moneys that may be provided by law 36770
for that program. The director shall use moneys in the fund as 36771

follows: 36772

(1) Expend amounts determined necessary by the director to 36773
implement, administer, and enforce the scrap tire provisions of 36774
this chapter and rules adopted under them; 36775

(2) During each fiscal year, request the director of budget 36776
and management to, and the director of budget and management 36777
shall, transfer one million dollars to the scrap tire grant fund 36778
created in section ~~1502.12~~ 3734.822 of the Revised Code for 36779
supporting market development activities for scrap tires and 36780
synthetic rubber from tire manufacturing processes and tire 36781
recycling processes. In addition, during a fiscal year, the 36782
director of environmental protection may request the director of 36783
budget and management to, and the director of budget and 36784
management shall, transfer up to an additional five hundred 36785
thousand dollars to the scrap tire grant fund for scrap tire 36786
amnesty events and scrap tire cleanup events. 36787

(3) After the expenditures and transfers are made under 36788
divisions (G)(1) and (2) of this section, expend the balance of 36789
the money in the scrap tire management fund remaining in each 36790
fiscal year to conduct removal actions under section 3734.85 of 36791
the Revised Code and to provide grants to boards of health under 36792
section 3734.042 of the Revised Code. 36793

Sec. ~~1502.12~~ 3734.822. (A) There is hereby created in the 36794
state treasury the scrap tire grant fund, consisting of moneys 36795
transferred to the fund under section 3734.82 of the Revised Code. 36796
The ~~chief of the division of recycling and litter prevention, with~~ 36797
~~the approval of the director of natural resources, environmental~~ 36798
protection may make grants from the fund for the following 36799
purposes: 36800

(1) Supporting market development activities for scrap tires 36801
and synthetic rubber from tire manufacturing processes and tire 36802

recycling processes;	36803
(2) Supporting scrap tire amnesty and cleanup events sponsored by solid waste management districts.	36804 36805
Grants awarded under division (A)(1) of this section may be awarded to individuals, businesses, and entities certified under division (A) of section 1502.04 <u>3736.04</u> of the Revised Code.	36806 36807 36808
(B) Projects and activities that are eligible for grants under division (A)(1) of this section shall be evaluated for funding using, at a minimum, the following criteria:	36809 36810 36811
(1) The degree to which a proposed project contributes to the increased use of scrap tires generated in this state;	36812 36813
(2) The degree of local financial support for a proposed project;	36814 36815
(3) The technical merit and quality of a proposed project.	36816
Sec. 3735.37. A metropolitan housing authority shall keep an accurate account of all its activities and of all receipts and expenditures and make an annual report thereof to the director of development of these publicly available . All moneys received in excess of operating expenditures shall be devoted to the payment of interest and sinking fund charges for the retirement of indebtedness, whether secured by mortgage or otherwise, and from the excess there shall be set aside such fund as the authority deems proper for the purpose of covering repairs, depreciation, and reserves. Whatever balance then remains shall be applied to the reduction of rentals thereafter falling due.	36817 36818 36819 36820 36821 36822 36823 36824 36825 36826 36827
Sec. 1502.01 <u>3736.01</u>. As used in this chapter:	36828
(A) "Litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass, or anything else of an unsightly or unsanitary	36829 36830 36831

nature thrown, dropped, discarded, placed, or deposited by a 36832
person on public property, on private property not owned by the 36833
person, or in or on waters of the state unless one of the 36834
following applies: 36835

(1) The person has been directed to do so by a public 36836
official as part of a litter collection drive. 36837

(2) The person has thrown, dropped, discarded, placed, or 36838
deposited the material in a receptacle in a manner that prevented 36839
its being carried away by the elements. 36840

(3) The person has been issued a permit or license covering 36841
the material pursuant to Chapter 3734. or 6111. of the Revised 36842
Code. 36843

(B) "Recycling" means the process of collecting, sorting, 36844
cleansing, treating, and reconstituting waste or other discarded 36845
materials for the purpose of recovering and reusing the materials. 36846

(C) "Agency of the state" includes, but is not limited to, an 36847
"agency" subject to Chapter 119. of the Revised Code and a "state 36848
university or college" as defined in section 3345.12 of the 36849
Revised Code. 36850

(D) "Source reduction" means activities that decrease the 36851
initial production of waste materials at their point of origin. 36852

(E) "Enterprise" means a business with its principal place of 36853
business in this state and that proposes to engage in research and 36854
development or recycling in this state. 36855

(F) "Research and development" means inquiry, 36856
experimentation, or demonstration to advance basic scientific or 36857
technical knowledge or the application, adaptation, or use of 36858
existing or newly discovered scientific or technical knowledge 36859
regarding recycling, source reduction, or litter prevention. 36860

(G) "Recyclables" means waste materials that are collected, 36861

separated, or processed and used as raw materials or products. 36862

(H) "Recycling market development" means activities that 36863
stimulate the demand for recycled products, provide for a 36864
consistent supply of recyclables to meet the needs of recycling 36865
industries, or both. 36866

(I) "Solid waste management districts" means solid waste 36867
management districts established under Chapter 343. of the Revised 36868
Code. 36869

(J) "Synthetic rubber" means produced or extended rubber and 36870
products made from a synthetic rubber base material originating 36871
from petrochemical feedstocks, including scrap tires, tire molds, 36872
automobile engine belts, brake pads and hoses, weather stripping, 36873
fittings, electrical insulation, and other molded objects and 36874
parts. 36875

Sec. ~~1502.03~~ 3736.02. (A) The ~~chief director of the division~~ 36876
~~of recycling and litter prevention~~ environmental protection shall 36877
establish and implement statewide source reduction, recycling, 36878
recycling market development, and litter prevention programs that 36879
are consistent with the state solid waste management plan adopted 36880
under section 3734.50 of the Revised Code. The programs shall 36881
include all of the following: 36882

(1) The assessment of waste generation within the state and 36883
implementation of source reduction practices; 36884

(2) The implementation of recycling and recycling market 36885
development activities and projects, including all of the 36886
following: 36887

(a) Collection of recyclables; 36888

(b) Separation of recyclables; 36889

(c) Processing of recyclables; 36890

(d) Facilitation and encouragement of the use of recyclables and products made with recyclables;	36891 36892
(e) Education and training concerning recycling and products manufactured with recyclables;	36893 36894
(f) Public awareness campaigns to promote recycling;	36895
(g) Other activities and projects that promote recycling and recycling market development.	36896 36897
(3) Litter prevention assistance to enforce antilitter laws, educate the public, and stimulate collection and containment of litter;	36898 36899 36900
(4) Research and development regarding source reduction, recycling, and litter prevention, including, without limitation, research and development regarding materials or products manufactured with recyclables.	36901 36902 36903 36904
(B) The chief, with the approval of the director of natural resources, may enter into contracts or other agreements and may execute any instruments necessary or incidental to the discharge of the chief's <u>director's</u> responsibilities under this chapter.	36905 36906 36907 36908
Sec. 1502.02 3736.03. (A) There is hereby created in the department of natural resources the division of recycling and litter prevention to be headed by the chief of recycling and litter prevention.	36909 36910 36911 36912
(B) There is hereby created in the state treasury the recycling and litter prevention fund, consisting of moneys distributed to it from fees, including the fee levied under division (A)(2) of section 3714.073 of the Revised Code, gifts, donations, grants, reimbursements, and other sources, including investment earnings.	36913 36914 36915 36916 36917 36918
(C) (B) The <u>chief director of recycling and litter prevention</u> environmental protection shall do all of the following:	36919 36920

(1) Use moneys credited to the fund exclusively for the 36921
purposes set forth in sections ~~1502.03~~ 3736.02, ~~1502.04~~ 3736.04, 36922
3736.05, and ~~1502.05~~ 3745.014 of the Revised Code, with particular 36923
emphasis on programs relating to recycling; 36924

(2) ~~Expend for administration of the division not more than~~ 36925
~~ten per cent of any fiscal year's appropriation to the division,~~ 36926
~~excluding the amount assessed to the division for direct and~~ 36927
~~indirect central support charges;~~ 36928

~~(3)~~ Require recipients of grants under section ~~1502.05~~ 36929
3736.05 of the Revised Code, as a condition of receiving and 36930
retaining them, to do all of the following: 36931

(a) Create a separate account for the grants and any cash 36932
donations received that qualify for the donor credit allowed by 36933
section 5733.064 of the Revised Code; 36934

(b) Make expenditures from the account exclusively for the 36935
purposes for which the grants were received; 36936

(c) Use any auditing and accounting practices the ~~chief~~ 36937
director considers necessary regarding the account; 36938

(d) Report to the ~~chief~~ director information regarding the 36939
amount and donor of cash donations received as described by 36940
section 5733.064 of the Revised Code; 36941

(e) Use grants received to supplement and not to replace any 36942
existing funding for such purposes. 36943

~~(4)~~(3) Report to the tax commissioner information the ~~chief~~ 36944
director receives pursuant to division ~~(C)~~(3)~~(B)~~(2)(d) of this 36945
section. 36946

Sec. ~~1502.04~~ 3736.04. There is hereby created within the 36947
~~division of recycling and litter prevention~~ environmental 36948
protection agency the recycling and litter prevention advisory 36949
council consisting of thirteen members. The speaker of the house 36950

of representatives shall appoint one member of the house of 36951
representatives to the council, and the president of the senate 36952
shall appoint one member of the senate to the council. If the 36953
president of the senate belongs to the same political party as the 36954
speaker of the house of representatives, the president shall 36955
appoint a member of the senate who belongs to a different 36956
political party as recommended by the minority leader of the 36957
senate. ~~The speaker of the house of representatives and the~~ 36958
~~president of the senate shall make their initial appointments to~~ 36959
~~the council within sixty days after July 20, 1994.~~ Each member 36960
appointed by the speaker of the house of representatives or the 36961
president of the senate shall serve for a term of office of three 36962
years. The appropriate appointing authority may fill any vacancy 36963
occurring during the term of any member whom the appointing 36964
authority has appointed to the advisory council. 36965

The remaining eleven members shall be appointed by the 36966
governor with the advice and consent of the senate and shall be 36967
persons with knowledge of or experience in recycling or litter 36968
prevention programs. The council shall have broad-based 36969
representation of interests including agriculture, labor, the 36970
environment, manufacturing, wholesale and retail industry, and the 36971
public. One of the business members shall be from the commercial 36972
recycling industry, and another shall be from an industry required 36973
to pay taxes under section 5733.065 of the Revised Code. The 36974
director of ~~natural resources~~ environmental protection shall not 36975
be a member of the council. ~~The governor shall make initial~~ 36976
~~appointments to the council within thirty days after October 20,~~ 36977
~~1987. Of the governor's initial appointments to the council, five~~ 36978
~~shall be for a term of one year, and six shall be for a term of~~ 36979
~~two years. Thereafter, terms~~ Terms of office shall be for three 36980
years. Each member appointed by the governor shall hold office 36981
from the date of the member's appointment until the end of the 36982
term for which the member was appointed. In the event of death, 36983

removal, resignation, or incapacity of a member of the council 36984
appointed by the governor, the governor, with the advice and 36985
consent of the senate, shall appoint a successor who shall hold 36986
office for the remainder of the term for which the successor's 36987
predecessor was appointed. A member shall continue in office 36988
subsequent to the expiration date of the member's term until the 36989
member's successor takes office, or until a period of sixty days 36990
has elapsed, whichever occurs first. The governor at any time may 36991
remove any of the governor's appointees from the council for 36992
misfeasance, nonfeasance, or malfeasance in office. 36993

Members of the council may be reappointed. 36994

The council shall hold at least four regular quarterly 36995
meetings each year. Special meetings may be held at the behest of 36996
the chairperson or a majority of the members. The council annually 36997
shall select from among its members a chairperson, a 36998
vice-chairperson, and a secretary to keep a record of its 36999
proceedings. 37000

A majority vote of the members of the council is necessary to 37001
take action ~~in~~ on any matter. 37002

A member of the council shall serve without compensation for 37003
attending council meetings, but shall be reimbursed for all 37004
traveling, hotel, and other ordinary and necessary expenses 37005
incurred in the performance of the member's work as a member of 37006
the council. 37007

Membership on the council does not constitute holding a 37008
public office or position of employment under the laws of this 37009
state and does not constitute grounds for removal of public 37010
officers or employees from their offices or positions of 37011
employment. 37012

The council shall do all of the following: 37013

(A) ~~In conjunction with the chief of recycling and litter~~ 37014

~~prevention and with~~ With the approval of the director of ~~natural~~ 37015
~~resources~~ environmental protection, establish criteria by which to 37016
certify, and certify, agencies of the state, municipal 37017
corporations with a population of more than fifty thousand, 37018
counties, and solid waste management districts as eligible to 37019
receive grants under section ~~1502.05~~ 3736.05 of the Revised Code; 37020

(B) ~~In conjunction with the chief and with~~ With the approval 37021
of the director, establish criteria by which to certify, and 37022
certify, political subdivisions for receipt of special grants for 37023
activities or projects that are intended to accomplish the 37024
purposes of any of the programs established under section ~~1502.03~~ 37025
3736.02 of the Revised Code; 37026

(C) Advise the ~~chief~~ director in carrying out the ~~chief's~~ 37027
director's duties under this chapter. 37028

Sec. ~~1502.05~~ 3736.05. (A) The ~~chief~~ director of ~~recycling and~~ 37029
~~litter prevention~~ environmental protection, pursuant to division 37030
(A) of section ~~1502.04~~ 3736.04 of the Revised Code ~~and with the~~ 37031
~~approval of the director of natural resources~~, may make grants 37032
from the recycling and litter prevention fund created in section 37033
~~1502.02~~ 3736.03 of the Revised Code to accomplish the purposes of 37034
the programs established under section ~~1502.03~~ 3736.02 of the 37035
Revised Code. 37036

(B) Except as provided in division (C) of this section, ~~the~~ 37037
~~chief, with the approval of~~ the director, may require any eligible 37038
applicant certified by the recycling and litter prevention 37039
advisory council under division (A) of section ~~1502.04~~ 3736.04 of 37040
the Revised Code that applies for a grant for an activity or 37041
project that is intended to further the purposes of any program 37042
established under division (A)(1), (2), or (4) of section ~~1502.03~~ 37043
3736.02 of the Revised Code to provide a matching contribution of 37044
not more than fifty per cent of the grant. 37045

(C) Notwithstanding division (B) of this section, any grant awarded under division (A) of this section to foster cooperative research and development regarding recycling or the cooperative establishment or expansion of private recycling facilities or programs shall be made in conjunction with a contribution to the project by a cooperating enterprise that maintains or proposes to maintain a relevant research and development or recycling facility or program in this state or by an agency of the state, provided that funding provided by a state agency shall not be provided from general revenue funds appropriated by the general assembly. No grant made under division (A) of this section for the purposes described in this division shall exceed the contribution made by the cooperating enterprise or state agency. The ~~chief~~ director may consider cooperating contributions in the form of state of the art new equipment or in other forms if the ~~chief~~ director determines that the contribution is essential to the successful implementation of the project.

Grants made under division (A) of this section for the purposes described in this division shall be made in such form and conditioned on such terms as the ~~chief~~ director considers to be appropriate.

(D)(1) The ~~chief, with the approval of the~~ director, may require any eligible applicant certified by the recycling and litter prevention advisory council under division (A) of section ~~1502.04~~ 3736.04 of the Revised Code that applies for a grant that is intended to further the purposes of the program established under division (A)(3) of section ~~1502.03~~ 3736.02 of the Revised Code, except any eligible applicant that is or is located in a county that has a per capita income equal to or below ninety per cent of the median county per capita income of the state as determined by the ~~chief~~ director using the most recently available figures from the United States census bureau, to provide a

matching contribution as follows: 37078

(a) Up to ten per cent of the grant from any eligible 37079
applicant that is or is located in a county that has a per capita 37080
income above ninety per cent of the median county per capita 37081
income of the state, but equal to or below one hundred per cent of 37082
the median county per capita income of the state; 37083

(b) Up to twenty per cent of the grant from any eligible 37084
applicant that is or is located in a county that has a per capita 37085
income above the median county per capita income of the state. 37086

(2) If the eligible applicant is a joint solid waste 37087
management district or is filing a joint application on behalf of 37088
two or more counties, the matching contribution required under 37089
division (D)(1) of this section shall be the average of the 37090
matching contributions of all of the counties covered by the 37091
application as determined in accordance with that division. The 37092
matching contribution of a county that has a per capita income 37093
equal to or below ninety per cent of the median county per capita 37094
income of the state shall be included as zero in calculating the 37095
average matching contribution. 37096

(E) ~~After receiving notice from the~~ The director of 37097
~~environmental protection that each county within the state is~~ 37098
~~subject to the solid waste management plan of a solid waste~~ 37099
~~management district, the chief~~ shall ensure that not less than 37100
fifty per cent of the moneys distributed as grants under this 37101
section shall be expended for the purposes of recycling and 37102
recycling market development. 37103

(F) No information that is submitted to, acquired by, or 37104
exchanged with employees of the environmental protection agency 37105
who administer or provide services under this section and that is 37106
submitted, acquired, or exchanged in order to obtain a grant 37107
pursuant to division (A) of this section shall be used in any 37108

manner for the purpose of the enforcement of any requirement 37109
established in an environmental law or used as evidence in any 37110
judicial or administrative enforcement proceeding unless that 37111
information reveals a clear and immediate danger to the 37112
environment or to the health, safety, or welfare of the public. 37113

(G) Nothing in this section confers immunity on persons from 37114
enforcement that is based on information that is obtained by the 37115
director or the director's authorized representatives who are not 37116
employees of the agency who administer or provide services under 37117
this section. 37118

(H) As used in this section, "environmental law" means a law 37119
that is administered by the environmental protection agency. 37120

Sec. ~~1502.06~~ 3736.06. (A) Agencies of the state certified 37121
pursuant to section ~~1502.04~~ 3736.04 of the Revised Code as 37122
eligible to receive a grant shall designate an employee as the 37123
liaison with the ~~chief~~ director of ~~recycling and litter prevention~~ 37124
environmental protection to cooperate with ~~him~~ the director in 37125
carrying out ~~his~~ the director's duties under this chapter. 37126

(B) The executive and legislative authorities of municipal 37127
corporations, counties, and townships and the boards of park 37128
commissioners of township park districts created under section 37129
511.18 of the Revised Code, boards of park commissioners of park 37130
districts created under section 1545.04 of the Revised Code, and 37131
boards of education of city, exempted village, local, and joint 37132
vocational school districts may participate in the programs 37133
established under section ~~1502.03~~ 3736.02 of the Revised Code. 37134

Sec. ~~1502.07~~ 3736.07. No person, agency of the state, 37135
municipal corporation, county, or township shall sell or offer for 37136
sale any beer or mixed beverages as defined in section 4301.01 of 37137
the Revised Code, or any soft drink as defined in section 913.22 37138

of the Revised Code, in a metal container that is so designed that 37139
it may be opened by removing from the container a part of the 37140
container without using a separate opener. However, nothing in 37141
this section prohibits the sale or offering for sale of a 37142
container the only detachable part of which is a piece of tape or 37143
other similar adhesive material. 37144

Sec. ~~1502.99~~ 3736.99. Whoever violates section ~~1502.07~~ 37145
3736.07 of the Revised Code is guilty of a minor misdemeanor. Each 37146
day of violation constitutes a separate offense. 37147

Sec. 3737.83. The fire marshal shall, as part of the state 37148
fire code, adopt rules to: 37149

(A) Establish minimum standards of performance for fire 37150
protection equipment and fire fighting equipment; 37151

(B) Establish minimum standards of training, fix minimum 37152
qualifications, and require certificates for all persons who 37153
engage in the business for profit of installing, testing, 37154
repairing, or maintaining fire protection equipment; 37155

(C) Provide for the issuance of certificates required under 37156
division (B) of this section and establish the fees to be charged 37157
for such certificates. A certificate shall be granted, renewed, or 37158
revoked according to rules the fire marshal shall adopt. 37159

(D) Establish minimum standards of flammability for consumer 37160
goods in any case where the federal government or any department 37161
or agency thereof has established, or may from time to time 37162
establish standards of flammability for consumer goods. The 37163
standards established by the fire marshal shall be identical to 37164
the minimum federal standards. 37165

In any case where the federal government or any department or 37166
agency thereof, establishes standards of flammability for consumer 37167

goods subsequent to the adoption of a flammability standard by the 37168
fire marshal, standards previously adopted by the fire marshal 37169
shall not continue in effect to the extent such standards are not 37170
identical to the minimum federal standards. 37171

With respect to the adoption of minimum standards of 37172
flammability, this division shall supersede any authority granted 37173
a political subdivision by any other section of the Revised Code. 37174

(E) Establish minimum standards pursuant to section 5104.05 37175
of the Revised Code for fire prevention and fire safety in child 37176
day-care centers and in type A family day-care homes, as defined 37177
in section 5104.01 of the Revised Code. 37178

~~(F) Establish minimum standards for fire prevention and 37179
safety an adult group home seeking licensure as an adult care 37180
facility must meet under section 5119.71 of the Revised Code. The 37181
fire marshal shall adopt the rules under this division in 37182
consultation with the directors of mental health and aging and 37183
interested parties designated by the directors of mental health 37184
and aging. 37185~~

Sec. 3737.841. As used in this section and section 3737.842 37186
of the Revised Code: 37187

(A) "Public occupancy" means all of the following: 37188

(1) Any state correctional institution as defined in section 37189
2967.01 of the Revised Code and any county, multicounty, 37190
municipal, or municipal-county jail or workhouse; 37191

(2) Any hospital as defined in section 3727.01 of the Revised 37192
Code, any hospital licensed by the department of mental health 37193
under section 5119.20 of the Revised Code, and any institution, 37194
hospital, or other place established, controlled, or supervised by 37195
the department of mental health under Chapter 5119. of the Revised 37196
Code; 37197

(3) Any nursing home, residential care facility, or home for 37198
the aging as defined in section 3721.01 of the Revised Code and 37199
any ~~adult care~~ residential facility ~~as defined in~~ licensed under 37200
section ~~5119.70~~ 5119.22 of the Revised Code that provides 37201
accommodations, supervision, and personal care services for three 37202
to sixteen unrelated adults; 37203

(4) Any child day-care center and any type A family day-care 37204
home as defined in section 5104.01 of the Revised Code; 37205

(5) Any public auditorium or stadium; 37206

(6) Public assembly areas of hotels and motels containing 37207
more than ten articles of seating furniture. 37208

(B) "Sell" includes sell, offer or expose for sale, barter, 37209
trade, deliver, give away, rent, consign, lease, possess for sale, 37210
or dispose of in any other commercial manner. 37211

(C) Except as provided in division (D) of this section, 37212
"seating furniture" means any article of furniture, including 37213
children's furniture, that can be used as a support for an 37214
individual, or an individual's limbs or feet, when sitting or 37215
resting in an upright or reclining position and that either: 37216

(1) Is made with loose or attached cushions or pillows; 37217

(2) Is stuffed or filled in whole or in part with any filling 37218
material; 37219

(3) Is or can be stuffed or filled in whole or in part with 37220
any substance or material, concealed by fabric or any other 37221
covering. 37222

"Seating furniture" includes the cushions or pillows 37223
belonging to or forming a part of the furniture, the structural 37224
unit, and the filling material and its container or covering. 37225

(D) "Seating furniture" does not include, except if intended 37226
for use by children or in facilities designed for the care or 37227

treatment of humans, any of the following:	37228
(1) Cushions or pads intended solely for outdoor use;	37229
(2) Any article with a smooth surface that contains no more than one-half inch of filling material, if that article does not have an upholstered horizontal surface meeting an upholstered vertical surface;	37230 37231 37232 37233
(3) Any article manufactured solely for recreational use or physical fitness purposes, including weight-lifting benches, gymnasium mats or pads, and sidehorses.	37234 37235 37236
(E) "Filling material" means cotton, wool, kapok, feathers, down, hair, liquid, or any other natural or artificial material or substance that is used or can be used as stuffing in seating furniture.	37237 37238 37239 37240
Sec. 3742.01. As used in this chapter:	37241
(A) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code.	37242 37243 37244
(B) "Child care facility" means each area of any of the following in which child care, as defined in section 5104.01 of the Revised Code, is provided to children under six years of age:	37245 37246 37247
(1) A child day-care center, type A family day-care home, or type B family day-care home as defined in section 5104.01 of the Revised Code;	37248 37249 37250
(2) A type C family day-care home authorized to provide child care by Sub. H.B. 62 of the 121st general assembly, as amended by Am. Sub. S.B. 160 of the 121st general assembly and Sub. H.B. 407 of the 123rd general assembly;	37251 37252 37253 37254
(3) A preschool program or school child program as defined in section 3301.52 of the Revised Code.	37255 37256

(C) "Clearance examination" means an examination to determine whether the lead hazards in a residential unit, child care facility, or school have been sufficiently controlled. A clearance examination includes a visual assessment, collection, and analysis of environmental samples.

(D) "Clearance technician" means a person, other than a licensed lead inspector or licensed lead risk assessor, who performs a clearance examination.

(E) "Clinical laboratory" means a facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of substances derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease, or in the assessment or impairment of the health of human beings. "Clinical laboratory" does not include a facility that only collects or prepares specimens, or serves as a mailing service, and does not perform testing.

(F) "Encapsulation" means the coating and sealing of surfaces with durable surface coating specifically formulated to be elastic, able to withstand sharp and blunt impacts, long-lasting, and resilient, while also resistant to cracking, peeling, algae, fungus, and ultraviolet light, so as to prevent any part of lead-containing paint from becoming part of house dust or otherwise accessible to children.

(G) "Enclosure" means the resurfacing or covering of surfaces with durable materials such as wallboard or paneling, and the sealing or caulking of edges and joints, so as to prevent or control chalking, flaking, peeling, scaling, or loose lead-containing substances from becoming part of house dust or otherwise accessible to children.

(H) "Environmental lead analytical laboratory" means a 37288
facility that analyzes air, dust, soil, water, paint, film, or 37289
other substances, other than substances derived from the human 37290
body, for the presence and concentration of lead. 37291

(I) "HEPA" means the designation given to a product, device, 37292
or system that has been equipped with a high-efficiency 37293
particulate air filter, which is a filter capable of removing 37294
particles of 0.3 microns or larger from air at 99.97 per cent or 37295
greater efficiency. 37296

(J) "Interim controls" means a set of measures designed to 37297
reduce temporarily human exposure or likely human exposure to lead 37298
hazards. Interim controls include specialized cleaning, repairs, 37299
painting, temporary containment, ongoing lead hazard maintenance 37300
activities, and the establishment and operation of management and 37301
resident education programs. 37302

(K)(1) "Lead abatement" means a measure or set of measures 37303
designed for the single purpose of permanently eliminating lead 37304
hazards. "Lead abatement" includes all of the following: 37305

(a) Removal of lead-based paint and lead-contaminated dust; 37306

(b) Permanent enclosure or encapsulation of lead-based paint; 37307

(c) Replacement of surfaces or fixtures painted with 37308
lead-based paint; 37309

(d) Removal or permanent covering of lead-contaminated soil; 37310

(e) Preparation, cleanup, and disposal activities associated 37311
with lead abatement. 37312

(2) "Lead abatement" does not include any of the following: 37313

(a) Preventive treatments performed pursuant to section 37314
3742.41 of the Revised Code; 37315

(b) Implementation of interim controls; 37316

(c) Activities performed by a property owner on a residential unit to which both of the following apply:	37317 37318
(i) It is a freestanding single-family home used as the property owner's private residence.	37319 37320
(ii) No child under six years of age who has lead poisoning resides in the unit.	37321 37322
(L) "Lead abatement contractor" means any individual who engages in or intends to engage in lead abatement and employs or supervises one or more lead abatement workers, including on-site supervision of lead abatement projects, or prepares specifications, plans, or documents for a lead abatement project.	37323 37324 37325 37326 37327
(M) "Lead abatement project" means one or more lead abatement activities that are conducted by a lead abatement contractor and are reasonably related to each other.	37328 37329 37330
(N) "Lead abatement project designer" means a person who is responsible for designing lead abatement projects and preparing a pre-abatement plan for all designed projects.	37331 37332 37333
(O) "Lead abatement worker" means an individual who is responsible in a nonsupervisory capacity for the performance of lead abatement.	37334 37335 37336
(P) "Lead-based paint" means any paint or other similar surface-coating substance containing lead at or in excess of the level that is hazardous to human health, <u>as that level is established by rule of the public health council in rules adopted</u> under section 3742.50 of the Revised Code.	37337 37338 37339 37340 37341
(Q) "Lead-contaminated dust" means dust that contains an area or mass concentration of lead at or in excess of the level that is hazardous to human health, <u>as that level is established by rule of the public health council in rules adopted</u> under section 3742.50 of the Revised Code.	37342 37343 37344 37345 37346

(R) "Lead-contaminated soil" means soil that contains lead at 37347
or in excess of the level that is hazardous to human health, as 37348
~~that level is established by rule of the public health council in~~ 37349
~~rules adopted~~ under section 3742.50 of the Revised Code. 37350

(S) "Lead hazard" means material that is likely to cause lead 37351
exposure and endanger an individual's health as determined by the 37352
~~public director of health council~~ in rules adopted under section 37353
3742.50 of the Revised Code. "Lead hazard" includes lead-based 37354
paint, lead-contaminated dust, lead-contaminated soil, and 37355
lead-contaminated water pipes. 37356

(T) "Lead inspection" means a surface-by-surface 37357
investigation to determine the presence of lead-based paint. The 37358
inspection shall use a sampling or testing technique approved by 37359
the ~~public health council director~~ in rules adopted ~~by the council~~ 37360
under section 3742.03 of the Revised Code. A licensed lead 37361
inspector or laboratory approved under section 3742.09 of the 37362
Revised Code shall certify in writing the precise results of the 37363
inspection. 37364

(U) "Lead inspector" means any individual who conducts a lead 37365
inspection, provides professional advice regarding a lead 37366
inspection, or prepares a report explaining the results of a lead 37367
inspection. 37368

(V) "Lead poisoning" means the level of lead in human blood 37369
that is hazardous to human health, as specified in rules adopted 37370
under section 3742.50 of the Revised Code. 37371

(W) "Lead risk assessment" means an on-site investigation to 37372
determine and report the existence, nature, severity, and location 37373
of lead hazards in a residential unit, child care facility, or 37374
school, including information gathering from the unit, facility, 37375
or school's current owner's knowledge regarding the age and 37376
painting history of the unit, facility, or school and occupancy by 37377

children under six years of age, visual inspection, limited wipe 37378
sampling or other environmental sampling techniques, and any other 37379
activity as may be appropriate. 37380

(X) "Lead risk assessor" means a person who is responsible 37381
for developing a written inspection, risk assessment, and analysis 37382
plan; conducting inspections for lead hazards in a residential 37383
unit, child care facility, or school; interpreting results of 37384
inspections and risk assessments; identifying hazard control 37385
strategies to reduce or eliminate lead exposures; and completing a 37386
risk assessment report. 37387

(Y) "Lead-safe renovation" means the supervision or 37388
performance of services for the general improvement of all or part 37389
of an existing structure, including a residential unit, child care 37390
facility, or school, when the services are supervised or performed 37391
by a lead-safe renovator. 37392

(Z) "Lead-safe renovator" means a person who has successfully 37393
completed a training program in lead-safe renovation approved 37394
under section 3742.47 of the Revised Code. 37395

(AA) "Manager" means a person, who may be the same person as 37396
the owner, responsible for the daily operation of a residential 37397
unit, child care facility, or school. 37398

(BB) "Permanent" means an expected design life of at least 37399
twenty years. 37400

(CC) "Replacement" means an activity that entails removing 37401
components such as windows, doors, and trim that have lead hazards 37402
on their surfaces and installing components free of lead hazards. 37403

(DD) "Residential unit" means a dwelling or any part of a 37404
building being used as an individual's private residence. 37405

(EE) "School" means a public or nonpublic school in which 37406
children under six years of age receive education. 37407

Sec. 3742.02. (A) No person shall do any of the following:	37408
(1) Violate any provision of this chapter or the rules adopted pursuant to it;	37409 37410
(2) Apply or cause to be applied any lead-based paint on or inside a residential unit, child care facility, or school, unless the public <u>director of health council</u> has determined by rule under section 3742.50 of the Revised Code that no suitable substitute exists;	37411 37412 37413 37414 37415
(3) Interfere with an investigation conducted by the director of health or a board of health in accordance with section 3742.35 of the Revised Code.	37416 37417 37418
(B) No person shall knowingly authorize or employ an individual to perform lead abatement on a residential unit, child care facility, or school unless the individual who will perform the lead abatement holds a valid license issued under section 3742.05 of the Revised Code.	37419 37420 37421 37422 37423
(C) No person shall do any of the following when a residential unit, child care facility, or school is involved:	37424 37425
(1) Perform a lead inspection without a valid lead inspector license issued under section 3742.05 of the Revised Code;	37426 37427
(2) Perform a lead risk assessment or provide professional advice regarding lead abatement without a valid lead risk assessor license issued under section 3742.05 of the Revised Code;	37428 37429 37430
(3) Act as a lead abatement contractor without a valid lead abatement contractor's license issued under section 3742.05 of the Revised Code;	37431 37432 37433
(4) Act as a lead abatement project designer without a valid lead abatement project designer license issued under section 3742.05 of the Revised Code;	37434 37435 37436

(5) Perform lead abatement without a valid lead abatement worker license issued under section 3742.05 of the Revised Code;	37437 37438
(6) Effective one year after April 7, 2003, perform a clearance examination without a valid clearance technician license issued under section 3742.05 of the Revised Code, unless the person holds a valid lead inspector license or valid lead risk assessor license issued under that section;	37439 37440 37441 37442 37443
(7) Perform lead training for the licensing purposes of this chapter without a valid approval from the director of health under section 3742.08 of the Revised Code;	37444 37445 37446
(8) Perform interim controls without complying with 24 C.F.R. Part 35.	37447 37448
Sec. 3742.03. The public <u>director of health council</u> shall adopt rules in accordance with Chapter 119. of the Revised Code for the administration and enforcement of sections 3742.01 to 3742.19 and 3742.99 of the Revised Code. The rules shall specify all of the following:	37449 37450 37451 37452 37453
(A) Procedures to be followed by a lead abatement contractor, lead abatement project designer, lead abatement worker, lead inspector, or lead risk assessor licensed under section 3742.05 of the Revised Code for undertaking lead abatement activities and procedures to be followed by a clearance technician, lead inspector, or lead risk assessor in performing a clearance examination;	37454 37455 37456 37457 37458 37459 37460
(B)(1) Requirements for training and licensure, in addition to those established under section 3742.08 of the Revised Code, to include levels of training and periodic refresher training for each class of worker, and to be used for licensure under section 3742.05 of the Revised Code. Except in the case of clearance technicians, these requirements shall include at least twenty-four	37461 37462 37463 37464 37465 37466

classroom hours of training based on the Occupational Safety and Health Act training program for lead set forth in 29 C.F.R. 1926.62. For clearance technicians, the training requirements to obtain an initial license shall not exceed six hours and the requirements for refresher training shall not exceed two hours every four years. In establishing the training and licensure requirements, the ~~public health council~~ director shall consider the core of information that is needed by all licensed persons, and establish the training requirements so that persons who would seek licenses in more than one area would not have to take duplicative course work.

(2) Persons certified by the American board of industrial hygiene as a certified industrial hygienist or as an industrial hygienist-in-training, and persons registered as a sanitarian or sanitarian-in-training under Chapter 4736. of the Revised Code, shall be exempt from any training requirements for initial licensure established under this chapter, but shall be required to take any examinations for licensure required under section 3742.05 of the Revised Code.

(C) Fees for licenses issued under section 3742.05 of the Revised Code and for their renewal;

(D) Procedures to be followed by lead inspectors, lead abatement contractors, environmental lead analytical laboratories, lead risk assessors, lead abatement project designers, and lead abatement workers to prevent public exposure to lead hazards and ensure worker protection during lead abatement projects;

(E)(1) Record-keeping and reporting requirements for clinical laboratories, environmental lead analytical laboratories, lead inspectors, lead abatement contractors, lead risk assessors, lead abatement project designers, and lead abatement workers for lead abatement projects and record-keeping and reporting requirements for clinical laboratories, environmental lead analytical

laboratories, and clearance technicians for clearance examinations;	37499 37500
(2) Record-keeping and reporting requirements regarding lead poisoning for physicians, in addition to the requirements of section 3701.25 of the Revised Code;	37501 37502 37503
(3) Information that is required to be reported under rules based on divisions (E)(1) and (2) of this section and that is a medical record is not a public record under section 149.43 of the Revised Code and shall not be released, except in aggregate statistical form.	37504 37505 37506 37507 37508
(F) Environmental sampling techniques for use in collecting samples of air, water, dust, paint, and other materials;	37509 37510
(G) Requirements for a respiratory protection plan prepared in accordance with section 3742.07 of the Revised Code;	37511 37512
(H) Requirements under which a manufacturer of encapsulants must demonstrate evidence of the safety and durability of its encapsulants by providing results of testing from an independent laboratory indicating that the encapsulants meet the standards developed by the "E06.23.30 task group on encapsulants," which is the task group of the lead hazards associated with buildings subcommittee of the performance of buildings committee of the American society for testing and materials.	37513 37514 37515 37516 37517 37518 37519 37520
Sec. 3742.04. (A) The director of health shall do all of the following:	37521 37522
(1) Administer and enforce the requirements of sections 3742.01 to 3742.19 and 3742.99 of the Revised Code and the rules adopted pursuant to those sections;	37523 37524 37525
(2) Examine records and reports submitted by lead inspectors, lead abatement contractors, lead risk assessors, lead abatement project designers, lead abatement workers, and clearance	37526 37527 37528

technicians in accordance with section 3742.05 of the Revised Code 37529
to determine whether the requirements of this chapter are being 37530
met; 37531

(3) Examine records and reports submitted by physicians, 37532
clinical laboratories, and environmental lead analytical 37533
laboratories under section 3701.25 or 3742.09 of the Revised Code; 37534

(4) Issue approval to manufacturers of encapsulants that have 37535
done all of the following: 37536

(a) Submitted an application for approval to the director on 37537
a form prescribed by the director; 37538

(b) Paid the application fee established by the director; 37539

(c) Submitted results from an independent laboratory 37540
indicating that the manufacturer's encapsulants satisfy the 37541
requirements established in rules adopted under division (H) of 37542
section 3742.03 of the Revised Code; 37543

(d) Complied with rules adopted by the ~~public health council~~ 37544
director regarding durability and safety to workers and residents. 37545

(5) Establish liaisons and cooperate with the directors or 37546
agencies in states having lead abatement, licensing, 37547
accreditation, certification, and approval programs to promote 37548
consistency between the requirements of this chapter and those of 37549
other states in order to facilitate reciprocity of the programs 37550
among states; 37551

(6) Establish a program to monitor and audit the quality of 37552
work of lead inspectors, lead risk assessors, lead abatement 37553
project designers, lead abatement contractors, lead abatement 37554
workers, and clearance technicians. The director may refer 37555
improper work discovered through the program to the attorney 37556
general for appropriate action. 37557

(B) In addition to any other authority granted by this 37558

chapter, the director of health may do any of the following: 37559

(1) Employ persons who have received training from a program 37560
the director has determined provides the necessary background. The 37561
appropriate training may be obtained in a state that has an 37562
ongoing lead abatement program under which it conducts educational 37563
programs. 37564

(2) Cooperate with the United States environmental protection 37565
agency in any joint oversight procedures the agency may propose 37566
for laboratories that offer lead analysis services and are 37567
accredited under the agency's laboratory accreditation program; 37568

(3) Advise, consult, cooperate with, or enter into contracts 37569
or cooperative agreements with any person, government entity, 37570
interstate agency, or the federal government as the director 37571
considers necessary to fulfill the requirements of this chapter 37572
and the rules adopted under it. 37573

Sec. 3742.05. (A)(1) The director of health shall issue lead 37574
inspector, lead abatement contractor, lead risk assessor, lead 37575
abatement project designer, lead abatement worker, and clearance 37576
technician licenses. The director shall issue a license to an 37577
applicant who meets all of the following requirements: 37578

(a) Submits an application to the director on a form 37579
prescribed by the director; 37580

(b) Meets the licensing and training requirements established 37581
~~by the public health council in rules adopted~~ under section 37582
3742.03 of the Revised Code; 37583

(c) Successfully completes the licensing examination for the 37584
applicant's area of expertise administered under section 3742.08 37585
of the Revised Code and any training required by the director 37586
under that section; 37587

(d) Pays the license fee established ~~by the public health~~ 37588

~~council in rules adopted~~ under section 3742.03 of the Revised Code; 37589
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(e) Provides the applicant's social security number and any information the director may require to demonstrate the applicant's compliance with this chapter and the rules adopted under it. 37591
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(2) An individual may hold more than one license issued under this section, but a separate application is required for each license. 37595
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(B) A license issued under this section expires two years after the date of issuance. The director shall renew a license in accordance with the standard renewal procedure set forth in Chapter 4745. of the Revised Code, if the licensee does all of the following: 37598
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(1) Continues to meet the requirements of division (A) of this section; 37603
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(2) Demonstrates compliance with procedures to prevent public exposure to lead hazards and for worker protection during lead abatement projects established ~~by rule in rules~~ adopted ~~by the public health council~~ under section 3742.03 of the Revised Code; 37605
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(3) Meets the record-keeping and reporting requirements for lead abatement projects or clearance examinations established ~~by rule in rules~~ adopted ~~by the public health council~~ under section 3742.03 of the Revised Code; 37609
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(4) Pays the license renewal fee established ~~by rule in rules~~ adopted ~~by the public health council~~ under section 3742.03 of the Revised Code. 37613
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(C) An individual licensed, certified, or otherwise approved under the law of another state to perform functions substantially similar to those of a lead inspector, lead abatement contractor, 37616
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lead risk assessor, lead abatement project designer, lead 37619
abatement worker, or clearance technician may apply to the 37620
director of health for licensure in accordance with the procedures 37621
set forth in division (A) of this section. The director shall 37622
license an individual under this division on a determination that 37623
the standards for licensure, certification, or approval in that 37624
state are at least substantially equivalent to those established 37625
by this chapter and the rules adopted under it. The director may 37626
require an examination for licensure under this division. 37627

Sec. 3742.30. Each child at risk of lead poisoning shall 37628
undergo a blood lead screening test to determine whether the child 37629
has lead poisoning. The at-risk children shall undergo the test at 37630
times determined by rules the ~~public~~ director of health council 37631
shall adopt in accordance with Chapter 119. of the Revised Code 37632
that are consistent with the guidelines established by the centers 37633
for disease control and prevention in the public health service of 37634
the United States department of health and human services. The 37635
rules shall specify which children are at risk of lead poisoning. 37636

Neither this section nor the rules adopted under it affect 37637
the coverage of blood lead screening tests by any publicly funded 37638
health program, including the medicaid program established by 37639
Chapter 5111. of the Revised Code. Neither this section nor the 37640
rules adopted under it apply to a child if a parent of the child 37641
objects to the test on the grounds that the test conflicts with 37642
the parent's religious tenets and practices. 37643

Sec. 3742.47. (A) A person seeking approval of a training 37644
program in either essential maintenance practices or lead-safe 37645
renovation shall apply for approval to the director of health. The 37646
application shall be made on a form prescribed by the director and 37647
shall include the fee established under division (B) of this 37648
section. The director shall issue approval to the applicant if the 37649

applicant demonstrates to the satisfaction of the director that 37650
the training program will meet the following requirements and any 37651
other training program requirements established by rules adopted 37652
under section 3742.50 of the Revised Code: 37653

(1) Conducts the training program in a period of time that 37654
does not exceed six hours; 37655

(2) Administers an examination established by rule of the 37656
~~public health council~~ director at the end of the training program 37657
to each person who completes the training; 37658

(3) Grades each examination not later than one week after its 37659
completion and determines whether the person who took the 37660
examination received a passing score; 37661

(4) Not later than one week after the examination is 37662
completed provides written proof of training program completion to 37663
each person who completes the program and passes the examination. 37664

(B) The director of health shall establish an application fee 37665
for approving training programs under this section. The fee shall 37666
be reasonable and shall not exceed the expenses incurred in 37667
conducting the approval of training programs. An application fee 37668
submitted under division (A) of this section is nonrefundable. 37669

Sec. 3742.50. (A) The ~~public~~ director of health ~~council~~ shall 37670
adopt rules in accordance with Chapter 119. of the Revised Code 37671
establishing all of the following: 37672

(1) Procedures necessary for the development and operation of 37673
the child lead poisoning prevention program established under 37674
section 3742.31 of the Revised Code; 37675

(2) Standards and procedures for conducting investigations 37676
and risk assessments under sections 3742.35 and 3742.36 of the 37677
Revised Code; 37678

(3) Standards and procedures for issuing lead hazard control orders under section 3742.37 of the Revised Code, including standards and procedures for determining appropriate deadlines for complying with lead hazard control orders;

(4) The level of lead in human blood that is hazardous to human health, consistent with the guidelines issued by the centers for disease control and prevention in the public health service of the United States department of health and human services;

(5) The level of lead in paint, dust, and soil that is hazardous to human health;

(6) Standards and procedures to be followed when implementing preventive treatments for the control of lead hazards pursuant to section 3742.41 of the Revised Code that are based on information from the United States environmental protection agency, department of housing and urban development, occupational safety and health administration, or other agencies with recommendations or guidelines regarding implementation of preventive treatments;

(7) Standards that must be met to pass a clearance examination;

(8) Procedures for approving under section 3742.47 of the Revised Code training programs in essential maintenance practices and lead-safe renovation and requirements, in addition to those specified in section 3742.47 of the Revised Code, that a program must meet to receive approval;

(9) The examination to be administered by a training program approved under section 3742.47 of the Revised Code and the examination's passing score.

(B) The ~~public health council~~ director shall establish procedures for revising its rules to ensure that the child lead poisoning prevention activities conducted under this chapter continue to meet the requirements necessary to obtain any federal

funding available for those activities, including requirements 37710
established by the United States environmental protection agency, 37711
United States department of housing and urban development, or any 37712
other federal agency with jurisdiction over activities pertaining 37713
to child lead poisoning prevention. 37714

Sec. 3743.04. (A) The license of a manufacturer of fireworks 37715
is effective for one year beginning on the first day of December. 37716
The state fire marshal shall issue or renew a license only on that 37717
date and at no other time. If a manufacturer of fireworks wishes 37718
to continue manufacturing fireworks at the designated fireworks 37719
plant after its then effective license expires, it shall apply no 37720
later than the first day of October for a new license pursuant to 37721
section 3743.02 of the Revised Code. The state fire marshal shall 37722
send a written notice of the expiration of its license to a 37723
licensed manufacturer at least three months before the expiration 37724
date. 37725

(B) If, during the effective period of its licensure, a 37726
licensed manufacturer of fireworks wishes to construct, locate, or 37727
relocate any buildings or other structures on the premises of its 37728
fireworks plant, to make any structural change or renovation in 37729
any building or other structure on the premises of its fireworks 37730
plant, or to change the nature of its manufacturing of fireworks 37731
so as to include the processing of fireworks, the manufacturer 37732
shall notify the state fire marshal in writing. The state fire 37733
marshal may require a licensed manufacturer also to submit 37734
documentation, including, but not limited to, plans covering the 37735
proposed construction, location, relocation, structural change or 37736
renovation, or change in manufacturing of fireworks, if the state 37737
fire marshal determines the documentation is necessary for 37738
evaluation purposes in light of the proposed construction, 37739
location, relocation, structural change or renovation, or change 37740
in manufacturing of fireworks. 37741

Upon receipt of the notification and additional documentation 37742
required by the state fire marshal, the state fire marshal shall 37743
inspect the premises of the fireworks plant to determine if the 37744
proposed construction, location, relocation, structural change or 37745
renovation, or change in manufacturing of fireworks conforms to 37746
sections 3743.02 to 3743.08 of the Revised Code and the rules 37747
adopted by the state fire marshal pursuant to section 3743.05 of 37748
the Revised Code. The state fire marshal shall issue a written 37749
authorization to the manufacturer for the construction, location, 37750
relocation, structural change or renovation, or change in 37751
manufacturing of fireworks if the state fire marshal determines, 37752
upon the inspection and a review of submitted documentation, that 37753
the construction, location, relocation, structural change or 37754
renovation, or change in manufacturing of fireworks conforms to 37755
those sections and rules. Upon authorizing a change in 37756
manufacturing of fireworks to include the processing of fireworks, 37757
the state fire marshal shall make notations on the manufacturer's 37758
license and in the list of licensed manufacturers in accordance 37759
with section 3743.03 of the Revised Code. 37760

On or before June 1, 1998, a licensed manufacturer shall 37761
install, in every licensed building in which fireworks are 37762
manufactured, stored, or displayed and to which the public has 37763
access, interlinked fire detection, smoke exhaust, and smoke 37764
evacuation systems that are approved by the superintendent of 37765
~~labor~~ industrial compliance, and shall comply with floor plans 37766
showing occupancy load limits and internal circulation and egress 37767
patterns that are approved by the state fire marshal and 37768
superintendent, and that are submitted under seal as required by 37769
section 3791.04 of the Revised Code. Notwithstanding section 37770
3743.59 of the Revised Code, the construction and safety 37771
requirements established in this division are not subject to any 37772
variance, waiver, or exclusion. 37773

(C) The license of a manufacturer of fireworks authorizes the manufacturer to engage only in the following activities:

(1) The manufacturing of fireworks on the premises of the fireworks plant as described in the application for licensure or in the notification submitted under division (B) of this section, except that a licensed manufacturer shall not engage in the processing of fireworks unless authorized to do so by its license.

(2) To possess for sale at wholesale and sell at wholesale the fireworks manufactured by the manufacturer, to persons who are licensed wholesalers of fireworks, to out-of-state residents in accordance with section 3743.44 of the Revised Code, to residents of this state in accordance with section 3743.45 of the Revised Code, or to persons located in another state provided the fireworks are shipped directly out of this state to them by the manufacturer. A person who is licensed as a manufacturer of fireworks on June 14, 1988, also may possess for sale and sell pursuant to division (C)(2) of this section fireworks other than those the person manufactures. The possession for sale shall be on the premises of the fireworks plant described in the application for licensure or in the notification submitted under division (B) of this section, and the sale shall be from the inside of a licensed building and from no other structure or device outside a licensed building. At no time shall a licensed manufacturer sell any class of fireworks outside a licensed building.

(3) Possess for sale at retail and sell at retail the fireworks manufactured by the manufacturer, other than 1.4G fireworks as designated by the state fire marshal in rules adopted pursuant to division (A) of section 3743.05 of the Revised Code, to licensed exhibitors in accordance with sections 3743.50 to 3743.55 of the Revised Code, and possess for sale at retail and sell at retail the fireworks manufactured by the manufacturer, including 1.4G fireworks, to out-of-state residents in accordance

with section 3743.44 of the Revised Code, to residents of this 37806
state in accordance with section 3743.45 of the Revised Code, or 37807
to persons located in another state provided the fireworks are 37808
shipped directly out of this state to them by the manufacturer. A 37809
person who is licensed as a manufacturer of fireworks on June 14, 37810
1988, may also possess for sale and sell pursuant to division 37811
(C)(3) of this section fireworks other than those the person 37812
manufactures. The possession for sale shall be on the premises of 37813
the fireworks plant described in the application for licensure or 37814
in the notification submitted under division (B) of this section, 37815
and the sale shall be from the inside of a licensed building and 37816
from no other structure or device outside a licensed building. At 37817
no time shall a licensed manufacturer sell any class of fireworks 37818
outside a licensed building. 37819

A licensed manufacturer of fireworks shall sell under 37820
division (C) of this section only fireworks that meet the 37821
standards set by the consumer product safety commission or by the 37822
American fireworks standard laboratories or that have received an 37823
EX number from the United States department of transportation. 37824

(D) The license of a manufacturer of fireworks shall be 37825
protected under glass and posted in a conspicuous place on the 37826
premises of the fireworks plant. Except as otherwise provided in 37827
this division, the license is not transferable or assignable. A 37828
license may be transferred to another person for the same 37829
fireworks plant for which the license was issued if the assets of 37830
the plant are transferred to that person by inheritance or by a 37831
sale approved by the state fire marshal. The license is subject to 37832
revocation in accordance with section 3743.08 of the Revised Code. 37833

(E) The state fire marshal shall not place the license of a 37834
manufacturer of fireworks in a temporarily inactive status while 37835
the holder of the license is attempting to qualify to retain the 37836
license. 37837

(F) Each licensed manufacturer of fireworks that possesses 37838
fireworks for sale and sells fireworks under division (C) of 37839
section 3743.04 of the Revised Code, or a designee of the 37840
manufacturer, whose identity is provided to the state fire marshal 37841
by the manufacturer, annually shall attend a continuing education 37842
program. The state fire marshal shall develop the program and the 37843
state fire marshal or a person or public agency approved by the 37844
state fire marshal shall conduct it. A licensed manufacturer or 37845
the manufacturer's designee who attends a program as required 37846
under this division, within one year after attending the program, 37847
shall conduct in-service training as approved by the state fire 37848
marshal for other employees of the licensed manufacturer regarding 37849
the information obtained in the program. A licensed manufacturer 37850
shall provide the state fire marshal with notice of the date, 37851
time, and place of all in-service training. For any program 37852
conducted under this division, the state fire marshal shall, in 37853
accordance with rules adopted by the state fire marshal under 37854
Chapter 119. of the Revised Code, establish the subjects to be 37855
taught, the length of classes, the standards for approval, and 37856
time periods for notification by the licensee to the state fire 37857
marshal of any in-service training. 37858

(G) A licensed manufacturer shall maintain comprehensive 37859
general liability insurance coverage in the amount and type 37860
specified under division (B)(2) of section 3743.02 of the Revised 37861
Code at all times. Each policy of insurance required under this 37862
division shall contain a provision requiring the insurer to give 37863
not less than fifteen days' prior written notice to the state fire 37864
marshal before termination, lapse, or cancellation of the policy, 37865
or any change in the policy that reduces the coverage below the 37866
minimum required under this division. Prior to canceling or 37867
reducing the amount of coverage of any comprehensive general 37868
liability insurance coverage required under this division, a 37869
licensed manufacturer shall secure supplemental insurance in an 37870

amount and type that satisfies the requirements of this division 37871
so that no lapse in coverage occurs at any time. A licensed 37872
manufacturer who secures supplemental insurance shall file 37873
evidence of the supplemental insurance with the state fire marshal 37874
prior to canceling or reducing the amount of coverage of any 37875
comprehensive general liability insurance coverage required under 37876
this division. 37877

(H) The state fire marshal shall adopt rules for the 37878
expansion or contraction of a licensed premises and for approval 37879
of such expansions or contractions. The boundaries of a licensed 37880
premises, including any geographic expansion or contraction of 37881
those boundaries, shall be approved by the state fire marshal in 37882
accordance with rules the state fire marshal adopts. If the 37883
licensed premises consists of more than one parcel of real estate, 37884
those parcels shall be contiguous unless an exception is allowed 37885
pursuant to division (I) of this section. 37886

(I)(1) A licensed manufacturer may expand its licensed 37887
premises within this state to include not more than two storage 37888
locations that are located upon one or more real estate parcels 37889
that are noncontiguous to the licensed premises as that licensed 37890
premises exists on the date a licensee submits an application as 37891
described below, if all of the following apply: 37892

(a) The licensee submits an application to the state fire 37893
marshal and an application fee of one hundred dollars per storage 37894
location for which the licensee is requesting approval. 37895

(b) The identity of the holder of the license remains the 37896
same at the storage location. 37897

(c) The storage location has received a valid certificate of 37898
zoning compliance as applicable and a valid certificate of 37899
occupancy for each building or structure at the storage location 37900
issued by the authority having jurisdiction to issue the 37901

certificate for the storage location, and those certificates 37902
permit the distribution and storage of fireworks regulated under 37903
this chapter at the storage location and in the buildings or 37904
structures. The storage location shall be in compliance with all 37905
other applicable federal, state, and local laws and regulations. 37906

(d) Every building or structure located upon the storage 37907
location is separated from occupied residential and nonresidential 37908
buildings or structures, railroads, highways, or any other 37909
buildings or structures on the licensed premises in accordance 37910
with the distances specified in the rules adopted by the state 37911
fire marshal pursuant to section 3743.05 of the Revised Code. 37912

(e) Neither the licensee nor any person holding, owning, or 37913
controlling a five per cent or greater beneficial or equity 37914
interest in the licensee has been convicted of or pleaded guilty 37915
to a felony under the laws of this state, any other state, or the 37916
United States, after September 29, 2005. 37917

(f) The state fire marshal approves the application for 37918
expansion. 37919

(2) The state fire marshal shall approve an application for 37920
expansion requested under division (I)(1) of this section if the 37921
state fire marshal receives the application fee and proof that the 37922
requirements of divisions (I)(1)(b) to (e) of this section are 37923
satisfied. The storage location shall be considered part of the 37924
original licensed premises and shall use the same distinct number 37925
assigned to the original licensed premises with any additional 37926
designations as the state fire marshal deems necessary in 37927
accordance with section 3743.03 of the Revised Code. 37928

(J)(1) A licensee who obtains approval for the use of a 37929
storage location in accordance with division (I) of this section 37930
shall use the storage location exclusively for the following 37931
activities, in accordance with division (C) of this section: 37932

(a) The packaging, assembling, or storing of fireworks, which 37933
shall only occur in buildings or structures approved for such 37934
hazardous uses by the building code official having jurisdiction 37935
for the storage location or, for 1.4G fireworks, in containers or 37936
trailers approved for such hazardous uses by the state fire 37937
marshal if such containers or trailers are not subject to 37938
regulation by the building code adopted in accordance with Chapter 37939
3781. of the Revised Code. All such storage shall be in accordance 37940
with the rules adopted by the state fire marshal under division 37941
(G) of section 3743.05 of the Revised Code for the packaging, 37942
assembling, and storage of fireworks. 37943

(b) Distributing fireworks to other parcels of real estate 37944
located on the manufacturer's licensed premises, to licensed 37945
wholesalers or other licensed manufacturers in this state or to 37946
similarly licensed persons located in another state or country; 37947

(c) Distributing fireworks to a licensed exhibitor of 37948
fireworks pursuant to a properly issued permit in accordance with 37949
section 3743.54 of the Revised Code. 37950

(2) A licensed manufacturer shall not engage in any sales 37951
activity, including the retail sale of fireworks otherwise 37952
permitted under division (C)(2) or (C)(3) of this section, or 37953
pursuant to section 3743.44 or 3743.45 of the Revised Code, at the 37954
storage location approved under this section. 37955

(3) A storage location may not be relocated for a minimum 37956
period of five years after the storage location is approved by the 37957
state fire marshal in accordance with division (I) of this 37958
section. 37959

(K) The licensee shall prohibit public access to the storage 37960
location. The state fire marshal shall adopt rules to describe the 37961
acceptable measures a manufacturer shall use to prohibit access to 37962
the storage site. 37963

Sec. 3743.06. In addition to conforming to the rules of the 37964
fire marshal adopted pursuant to section 3743.05 of the Revised 37965
Code, licensed manufacturers of fireworks shall operate their 37966
fireworks plants in accordance with the following: 37967

(A) Signs indicating that smoking is generally forbidden and 37968
trespassing is prohibited on the premises of a fireworks plant 37969
shall be posted on the premises in a manner determined by the fire 37970
marshal. 37971

(B) Reasonable precautions shall be taken to protect the 37972
premises of a fireworks plant from trespass, loss, theft, or 37973
destruction. Only persons employed by the manufacturer, authorized 37974
governmental personnel, and persons who have obtained permission 37975
from a member of the manufacturer's office to be on the premises, 37976
are to be allowed to enter and remain on the premises. 37977

(C) Smoking or the carrying of pipes, cigarettes, or cigars, 37978
matches, lighters, other flame-producing items, or open flame on, 37979
or the carrying of a concealed source of ignition into, the 37980
premises of a fireworks plant is prohibited, except that a 37981
manufacturer may permit smoking in specified lunchrooms or 37982
restrooms in buildings or other structures in which no 37983
manufacturing, handling, sales, or storage of fireworks takes 37984
place. "NO SMOKING" signs shall be posted on the premises as 37985
required by the fire marshal. 37986

(D) Fire and explosion prevention and other reasonable safety 37987
measures and precautions shall be implemented by a manufacturer. 37988

(E) Persons shall not be permitted to have in their 37989
possession or under their control, while they are on the premises 37990
of the fireworks plant, any intoxicating liquor, beer, or 37991
controlled substance, and they shall not be permitted to enter or 37992
remain on the premises if they are found to be under the influence 37993
of any intoxicating liquor, beer, or controlled substance. 37994

(F) A manufacturer shall conform to all building, safety, and zoning statutes, ordinances, rules, or other enactments that apply to the premises of its fireworks plant.

(G) Each fireworks plant shall have at least one class 1 magazine that is approved by the bureau of alcohol, tobacco, and firearms of the United States department of the treasury and that is otherwise in conformity with federal law. This division does not apply to fireworks plants existing on or before August 3, 1931.

(H) Awnings, tents, and canopies shall not be used as facilities for the sale or storage of fireworks. This division does not prohibit the use of an awning or canopy attached to a public access showroom for storing nonflammable shopping convenience items such as shopping carts or baskets or providing a shaded area for patrons waiting to enter the public sales area.

(I) Fireworks may be stored in trailers if the trailers are properly enclosed, secured, and grounded and are separated from any structure to which the public is admitted by a distance that will, in the fire marshal's judgment, allow fire-fighting equipment to have full access to the structures on the licensed premises. Such trailers may be moved into closer proximity to any structure only to accept or discharge cargo for a period not to exceed forty-eight hours. Only two such trailers may be placed in such closer proximity at any one time. At no time may trailers be used for conducting sales of any class of fireworks, nor may members of the public have access to the trailers.

Storage areas for fireworks that are in the same building where fireworks are displayed and sold to the public shall be separated from the areas to which the public has access by an appropriately rated fire wall.

(J) A fire suppression system as defined in section 3781.108

of the Revised Code may be turned off only for repair, drainage of 38026
the system to prevent damage by freezing during the period of 38027
time, approved by the fire marshal, that the facility is closed to 38028
all public access during winter months, or maintenance of the 38029
system. If any repair or maintenance is necessary during times 38030
when the facility is open for public access and business as 38031
approved by the fire marshal, the licensed manufacturer shall 38032
notify in advance the appropriate insurance company and fire chief 38033
or fire prevention officer regarding the nature of the maintenance 38034
or repair and the time when it will be performed. 38035

(K) If any fireworks item is removed from its original 38036
package or is manufactured with any fuse other than a safety fuse 38037
approved by the consumer product safety commission, then the item 38038
shall be covered completely by repackaging or bagging or it shall 38039
otherwise be covered so as to prevent ignition prior to sale. 38040

(L) A safety officer shall be present during regular business 38041
hours at a building open to the public during the period 38042
commencing fourteen days before, and ending two days after, each 38043
fourth day of July. The officer shall be highly visible, enforce 38044
this chapter and any applicable building codes to the extent the 38045
officer is authorized by law, and be one of the following: 38046

(1) A deputy sheriff; 38047

(2) A law enforcement officer of a municipal corporation, 38048
township, or township or joint police district; 38049

(3) A private uniformed security guard registered under 38050
section 4749.06 of the Revised Code. 38051

(M) All doors of all buildings on the licensed premises shall 38052
swing outward. 38053

(N) All wholesale and commercial sales of fireworks shall be 38054
packaged, shipped, placarded, and transported in accordance with 38055
United States department of transportation regulations applicable 38056

to the transportation, and the offering for transportation, of 38057
hazardous materials. For purposes of this division, "wholesale and 38058
commercial sales" includes all sales for resale and any nonretail 38059
sale made in furtherance of a commercial enterprise. For purposes 38060
of enforcement of these regulations under section ~~4905.83~~ 4923.99 38061
of the Revised Code, any sales transaction exceeding one thousand 38062
pounds shall be rebuttably presumed to be a wholesale or 38063
commercial sale. 38064

Sec. 3743.19. In addition to conforming to the rules of the 38065
fire marshal adopted pursuant to section 3743.18 of the Revised 38066
Code, licensed wholesalers of fireworks shall conduct their 38067
business operations in accordance with the following: 38068

(A) A wholesaler shall conduct its business operations from 38069
the location described in its application for licensure or in a 38070
notification submitted under division (B) of section 3743.17 of 38071
the Revised Code. 38072

(B) Signs indicating that smoking is generally forbidden and 38073
trespassing is prohibited on the premises of a wholesaler shall be 38074
posted on the premises as determined by the fire marshal. 38075

(C) Reasonable precautions shall be taken to protect the 38076
premises of a wholesaler from trespass, loss, theft, or 38077
destruction. 38078

(D) Smoking or the carrying of pipes, cigarettes, or cigars, 38079
matches, lighters, other flame-producing items, or open flame on, 38080
or the carrying of a concealed source of ignition into, the 38081
premises of a wholesaler is prohibited, except that a wholesaler 38082
may permit smoking in specified lunchrooms or restrooms in 38083
buildings or other structures in which no sales, handling, or 38084
storage of fireworks takes place. "NO SMOKING" signs shall be 38085
posted on the premises as required by the fire marshal. 38086

(E) Fire and explosion prevention and other reasonable safety 38087
measures and precautions shall be implemented by a wholesaler. 38088

(F) Persons shall not be permitted to have in their 38089
possession or under their control, while they are on the premises 38090
of a wholesaler, any intoxicating liquor, beer, or controlled 38091
substance, and they shall not be permitted to enter or remain on 38092
the premises if they are found to be under the influence of any 38093
intoxicating liquor, beer, or controlled substance. 38094

(G) A wholesaler shall conform to all building, safety, and 38095
zoning statutes, ordinances, rules, or other enactments that apply 38096
to its premises. 38097

(H) Each building used in the sale of fireworks shall be kept 38098
open to the public for at least four hours each day between the 38099
hours of eight a.m. and five p.m., five days of each week, every 38100
week of the year. Upon application from a licensed wholesaler, the 38101
fire marshal may waive any of the requirements of this division. 38102

(I) Awnings, tents, or canopies shall not be used as 38103
facilities for the storage or sale of fireworks. This division 38104
does not prohibit the use of an awning or canopy attached to a 38105
public access showroom for storing nonflammable shopping 38106
convenience items such as shopping carts or baskets or providing a 38107
shaded area for patrons waiting to enter the public sales area. 38108

(J) 1.4G fireworks may be stored in trailers if the trailers 38109
are properly enclosed, secured, and grounded and are separated 38110
from any structure to which the public is admitted by a distance 38111
that will, in the fire marshal's judgment, allow fire-fighting 38112
equipment to have full access to the structures on the licensed 38113
premises. Such trailers may be moved into closer proximity to any 38114
structure only to accept or discharge cargo for a period not to 38115
exceed forty-eight hours. Only two such trailers may be placed in 38116
such closer proximity at any one time. At no time may trailers be 38117

used for conducting sales of any class of fireworks nor may 38118
members of the public have access to the trailers. 38119

Storage areas for fireworks that are in the same building 38120
where fireworks are displayed and sold to the public shall be 38121
separated from the areas to which the public has access by an 38122
appropriately rated fire wall. If the licensee installs and 38123
properly maintains an early suppression fast response sprinkler 38124
system or equivalent fire suppression system as described in the 38125
fire code adopted by the fire marshal in accordance with section 38126
3737.82 of the Revised Code throughout the structure, a fire 38127
barrier wall may be substituted for a fire wall between the areas 38128
to which the public has access and the storage portions of the 38129
structure. 38130

(K) A fire suppression system as defined in section 3781.108 38131
of the Revised Code may be turned off only for repair, drainage of 38132
the system to prevent damage by freezing during the period of 38133
time, approved by the fire marshal under division (I) of this 38134
section, that the facility is closed to public access during 38135
winter months, or maintenance of the system. If any repair or 38136
maintenance is necessary during times when the facility is open 38137
for public access and business, the licensed wholesaler shall 38138
notify in advance the appropriate insurance company and fire chief 38139
or fire prevention officer regarding the nature of the maintenance 38140
or repair and the time when it will be performed. 38141

(L) If any fireworks item is removed from its original 38142
package or is manufactured with any fuse other than a fuse 38143
approved by the consumer product safety commission, then the item 38144
shall be covered completely by repackaging or bagging or it shall 38145
otherwise be covered so as to prevent ignition prior to sale. 38146

(M) A safety officer shall be present during regular business 38147
hours at a building open to the public during the period 38148
commencing fourteen days before, and ending two days after, each 38149

fourth day of July. The officer shall be highly visible, enforce 38150
this chapter and any applicable building codes to the extent the 38151
officer is authorized by law, and be one of the following: 38152

(1) A deputy sheriff; 38153

(2) A law enforcement officer of a municipal corporation, 38154
township, or township or joint police district; 38155

(3) A private uniformed security guard registered under 38156
section 4749.06 of the Revised Code. 38157

(N) All doors of all buildings on the licensed premises shall 38158
swing outward. 38159

(O) All wholesale and commercial sales of fireworks shall be 38160
packaged, shipped, placarded, and transported in accordance with 38161
United States department of transportation regulations applicable 38162
to the transportation, and the offering for transportation, of 38163
hazardous materials. For purposes of this division, "wholesale and 38164
commercial sales" includes all sales for resale and any nonretail 38165
sale made in furtherance of a commercial enterprise. For purposes 38166
of enforcement of these regulations under section ~~4905.83~~ 4923.99 38167
of the Revised Code, any sales transaction exceeding one thousand 38168
pounds shall be rebuttably presumed to be a wholesale or 38169
commercial sale. 38170

Sec. 3743.25. (A)(1) Except as described in division (A)(2) 38171
of this section, all retail sales of 1.4G fireworks by a licensed 38172
manufacturer or wholesaler shall only occur from an approved 38173
retail sales showroom on a licensed premises or from a 38174
representative sample showroom as described in this section on a 38175
licensed premises. For the purposes of this section, a retail sale 38176
includes the transfer of the possession of the 1.4G fireworks from 38177
the licensed manufacturer or wholesaler to the purchaser of the 38178
fireworks. 38179

(2) Sales of 1.4G fireworks to a licensed exhibitor for a properly permitted exhibition shall occur in accordance with the provisions of the Revised Code and rules adopted by the state fire marshal under Chapter 119. of the Revised Code. Such rules shall specify, at a minimum, that the licensed exhibitor holds a license under section 3743.51 of the Revised Code, that the exhibitor possesses a valid exhibition permit issued in accordance with section 3743.54 of the Revised Code, and that the fireworks shipped are to be used at the specifically permitted exhibition.

(B) All wholesale sales of fireworks by a licensed manufacturer or wholesaler shall only occur from a licensed premises to persons who intend to resell the fireworks purchased at wholesale. A wholesale sale by a licensed manufacturer or wholesaler may occur as follows:

(1) The direct sale and shipment of fireworks to a person outside of this state;

(2) From an approved retail sales showroom as described in this section;

(3) From a representative sample showroom as described in this section;

(4) By delivery of wholesale fireworks to a purchaser at a licensed premises outside of a structure or building on that premises. All other portions of the wholesale sales transaction may occur at any location on a licensed premises.

(5) Any other method as described in rules adopted by the state fire marshal under Chapter 119. of the Revised Code.

(C) A licensed manufacturer or wholesaler shall only sell 1.4G fireworks from a representative sample showroom or a retail sales showroom. Each licensed premises shall only contain one sales structure.

A representative sample showroom shall consist of a structure 38210
constructed and maintained in accordance with the nonresidential 38211
building code adopted under Chapter 3781. of the Revised Code and 38212
the fire code adopted under section 3737.82 of the Revised Code 38213
for a use and occupancy group that permits mercantile sales. A 38214
representative sample showroom shall not contain any pyrotechnics, 38215
pyrotechnic materials, fireworks, explosives, explosive materials, 38216
or any similar hazardous materials or substances. A representative 38217
sample showroom shall be used only for the public viewing of 38218
fireworks product representations, including paper materials, 38219
packaging materials, catalogs, photographs, or other similar 38220
product depictions. The delivery of product to a purchaser of 38221
fireworks at a licensed premises that has a representative sample 38222
structure shall not occur inside any structure on a licensed 38223
premises. Such product delivery shall occur on the licensed 38224
premises in a manner prescribed by rules adopted by the state fire 38225
marshal pursuant to Chapter 119. of the Revised Code. 38226

If a manufacturer or wholesaler elects to conduct sales from 38227
a retail sales showroom, the showroom structures, to which the 38228
public may have any access and in which employees are required to 38229
work, on all licensed premises, shall comply with the following 38230
safety requirements: 38231

(1) A fireworks showroom that is constructed or upon which 38232
expansion is undertaken on and after June 30, 1997, shall be 38233
equipped with interlinked fire detection, fire suppression, smoke 38234
exhaust, and smoke evacuation systems that are approved by the 38235
superintendent of ~~labor~~ industrial compliance in the department of 38236
commerce. 38237

(2) A fireworks showroom that first begins to operate on or 38238
after June 30, 1997, and to which the public has access for retail 38239
purposes shall not exceed five thousand square feet in floor area. 38240

(3) A newly constructed or an existing fireworks showroom 38241

structure that exists on September 23, 2008, but that, on or after 38242
September 23, 2008, is altered or added to in a manner requiring 38243
the submission of plans, drawings, specifications, or data 38244
pursuant to section 3791.04 of the Revised Code, shall comply with 38245
a graphic floor plan layout that is approved by the state fire 38246
marshal and superintendent showing width of aisles, parallel 38247
arrangement of aisles to exits, number of exits per wall, maximum 38248
occupancy load, evacuation plan for occupants, height of storage 38249
or display of merchandise, and other information as may be 38250
required by the state fire marshal and superintendent. 38251

(4) A fireworks showroom structure that exists on June 30, 38252
1997, shall be in compliance on or after June 30, 1997, with floor 38253
plans showing occupancy load limits and internal circulation and 38254
egress patterns that are approved by the state fire marshal and 38255
superintendent, and that are submitted under seal as required by 38256
section 3791.04 of the Revised Code. 38257

(D) The safety requirements established in division (C) of 38258
this section are not subject to any variance, waiver, or exclusion 38259
pursuant to this chapter or any applicable building code. 38260

Sec. 3745.01. There is hereby created the environmental 38261
protection agency, headed by the director of environmental 38262
protection. The agency, under the supervision of the director, 38263
shall administer the laws pertaining to chemical emergency 38264
planning, community right-to-know, and toxic chemical release 38265
reporting; the cessation of chemical handling operations; the 38266
prevention, control, and abatement of air and water pollution; 38267
public water supply; comprehensive water resource management 38268
planning; products that contain mercury as defined in section 38269
3734.61 of the Revised Code; and the disposal and treatment of 38270
solid wastes, infectious wastes, construction and demolition 38271
debris, hazardous waste, sewage, industrial waste, and other 38272

wastes. The director may do all of the following: 38273

(A) Provide such methods of administration, appoint such 38274
personnel, make such reports, and take such other action as may be 38275
necessary to comply with the requirements of the federal laws and 38276
regulations pertaining to chemical emergency planning, community 38277
right-to-know, and toxic chemical release reporting; air and water 38278
pollution control; public water supply; water resource planning; 38279
and waste disposal and treatment; 38280

(B) Procure by contract the temporary or intermittent 38281
services of experts or consultants, or organizations thereof, when 38282
those services are to be performed on a part-time or 38283
fee-for-service basis and do not involve the performance of 38284
administrative duties; 38285

(C) Advise, consult, cooperate, and enter into contracts or 38286
agreements, including consensual administrative order agreements, 38287
with any other agencies of the state, the federal government, 38288
other states, ~~and~~ interstate agencies, and persons and with 38289
affected groups, political subdivisions, and industries in 38290
furtherance of the purposes of this chapter and Chapters 3704., 38291
3714., 3734., 3751., 3752., 6109., and 6111. of the Revised Code; 38292

(D) Establish advisory boards in accordance with section 38293
121.13 of the Revised Code; 38294

(E) Accept on behalf of the state any grant, gift, or 38295
contribution made for toxic chemical release reporting, air or 38296
water pollution control, public water supply, water resource 38297
planning, waste disposal or treatment, or related purposes, and 38298
expend it for those purposes; 38299

(F) Make an annual report to the governor and the general 38300
assembly on activities and expenditures as well as recommendations 38301
for such additional legislation as the director considers 38302
appropriate to carry out the director's duties or accomplish the 38303

purposes of this section; 38304

(G) Enter into environmental covenants in accordance with 38305
sections 5301.80 to 5301.92 of the Revised Code, and grant or 38306
accept easements or sell real property pursuant to section 38307
3734.22, 3734.24, 3734.25, or 3734.26 of the Revised Code, as 38308
applicable. 38309

The agency shall utilize the laboratory facilities of the 38310
department of health and other state institutions and agencies to 38311
the maximum extent that the utilization is practicable, 38312
economical, and technically satisfactory. 38313

The director shall maintain and keep available for public 38314
inspection, at the director's principal office, a current register 38315
of all applications filed for permits, leases, licenses, 38316
variances, certificates, and approval of plans and specifications 38317
and of publicly owned treatment works pretreatment programs under 38318
the director's jurisdiction, hearings pending, the director's 38319
final action thereon, and the dates on which the filings, 38320
hearings, and final actions occur. The director shall maintain and 38321
keep available for public inspection at the director's principal 38322
office all plans, reports, and other documents required to be 38323
filed with the emergency response commission under Chapter 3750. 38324
of the Revised Code and rules adopted under it, and all reports 38325
and other documents required to be filed with the director under 38326
Chapter 3751. of the Revised Code and rules adopted under it, 38327
subject to the requirements of those chapters and rules adopted 38328
under them for the protection of trade secrets and confidential 38329
business information from disclosure to persons not authorized 38330
under those laws to receive trade secret or confidential business 38331
information. 38332

Sec. 3745.05. (A) In hearing the appeal, if an adjudication 38333
hearing was conducted by the director of environmental protection 38334

in accordance with sections 119.09 and 119.10 of the Revised Code 38335
or conducted by a board of health, the environmental review 38336
appeals commission is confined to the record as certified to it by 38337
the director or the board of health, as applicable. The commission 38338
may grant a request for the admission of additional evidence when 38339
satisfied that such additional evidence is newly discovered and 38340
could not with reasonable diligence have been ascertained prior to 38341
the hearing before the director or the board, as applicable. If no 38342
adjudication hearing was conducted in accordance with sections 38343
119.09 and 119.10 of the Revised Code or conducted by a board of 38344
health, the commission shall conduct a hearing de novo on the 38345
appeal. 38346

For the purpose of conducting a de novo hearing, or where the 38347
commission has granted a request for the admission of additional 38348
evidence, the commission may require the attendance of witnesses 38349
and the production of written or printed materials. 38350

When conducting a de novo hearing, or when a request for the 38351
admission of additional evidence has been granted, the commission 38352
may, and at the request of any party it shall, issue subpoenas for 38353
witnesses or for books, papers, correspondence, memoranda, 38354
agreements, or other documents or records relevant or material to 38355
the inquiry directed to the sheriff of the counties where the 38356
witnesses or documents or records are found, which subpoenas shall 38357
be served and returned in the same manner as those allowed by the 38358
court of common pleas in criminal cases. 38359

(B) The fees of sheriffs shall be the same as those allowed 38360
by the court of common pleas in criminal cases. Witnesses shall be 38361
paid the fees and mileage provided for under section 119.094 of 38362
the Revised Code. The fee and mileage expenses incurred at the 38363
request of the appellant shall be paid in advance by the 38364
appellant, and the remainder of the expenses shall be paid out of 38365
funds appropriated for the expenses of the commission. 38366

(C) In case of disobedience or neglect of any subpoena served 38367
on any person, or the refusal of any witness to testify to any 38368
matter regarding which the witness may be lawfully interrogated, 38369
the court of common pleas of the county in which the disobedience, 38370
neglect, or refusal occurs, or any judge thereof, on application 38371
of the commission or any member thereof, may compel obedience by 38372
attachment proceedings for contempt as in the case of disobedience 38373
of the requirements of a subpoena issued from the court or a 38374
refusal to testify therein. 38375

(D) A witness at any hearing shall testify under oath or 38376
affirmation, which any member of the commission may administer. A 38377
witness, if the witness requests, shall be permitted to be 38378
accompanied, represented, and advised by an attorney, whose 38379
participation in the hearing shall be limited to the protection of 38380
the rights of the witness, and who may not examine or 38381
cross-examine witnesses. A witness shall be advised of the right 38382
to counsel before the witness is interrogated. 38383

(E) A ~~stenographic~~ record of the testimony and other evidence 38384
submitted shall be taken by an official court ~~shorthand~~ reporter. 38385
The record shall include all of the testimony and other evidence 38386
and the rulings on the admissibility thereof presented at the 38387
hearing. The commission shall pass upon the admissibility of 38388
evidence, but any party may at the time object to the admission of 38389
any evidence and except to the rulings of the commission thereon, 38390
and if the commission refuses to admit evidence the party offering 38391
same may make a proffer thereof, and such proffer shall be made a 38392
part of the record of such hearing. 38393

Any party may request the ~~stenographic~~ record of the hearing. 38394
Promptly after receiving such a request, the commission shall 38395
prepare and provide the ~~stenographic~~ record of the hearing to the 38396
party who requested it. The commission may charge a fee to the 38397
party who requested the ~~stenographic~~ record that does not exceed 38398

the cost to the commission for preparing and transcribing or 38399
transmitting it. 38400

(F) If, upon completion of the hearing, the commission finds 38401
that the action appealed from was lawful and reasonable, it shall 38402
make a written order affirming the action, or if the commission 38403
finds that the action was unreasonable or unlawful, it shall make 38404
a written order vacating or modifying the action appealed from. 38405

The commission shall issue a written order affirming, 38406
vacating, or modifying an action pursuant to the following 38407
schedule: 38408

(1) For an appeal that was filed with the commission before 38409
April 15, 2008, the commission shall issue a written order not 38410
later than December 15, 2009. 38411

(2) For all other appeals that have been filed with the 38412
commission as of October 15, 2009, the commission shall issue a 38413
written order not later than July 15, 2010. 38414

(3) For an appeal that is filed with the commission after 38415
October 15, 2009, the commission shall issue a written order not 38416
later than twelve months after the filing of the appeal with the 38417
commission. 38418

(G) Every order made by the commission shall contain a 38419
written finding by the commission of the facts upon which the 38420
order is based. Notice of the making of the order shall be given 38421
forthwith to each party to the appeal by mailing a certified copy 38422
thereof to each party by certified mail, with a statement of the 38423
time and method by which an appeal may be perfected. 38424

(H) The order of the commission is final unless vacated or 38425
modified upon judicial review. 38426

Sec. 3745.11. (A) Applicants for and holders of permits, 38427
licenses, variances, plan approvals, and certifications issued by 38428

the director of environmental protection pursuant to Chapters 3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee to the environmental protection agency for each such issuance and each application for an issuance as provided by this section. No fee shall be charged for any issuance for which no application has been submitted to the director.

~~(B) Each person who is issued a permit to install prior to July 1, 2003, pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees specified in the following schedules:~~

(1) Fuel burning equipment (boilers)		
Input capacity (maximum)		
(million British thermal units per hour)	Permit to install	
Greater than 0, but less than 10	\$ 200	
10 or more, but less than 100	400	
100 or more, but less than 300	800	
300 or more, but less than 500	1500	
500 or more, but less than 1000	2500	
1000 or more, but less than 5000	4000	
5000 or more	6000	

~~Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one half of the applicable amount established in division (F)(1) of this section.~~

(2) Incinerators		
Input capacity (pounds per hour)	Permit to install	
0 to 100	\$ 100	
101 to 500	400	
501 to 2000	750	
2001 to 20,000	1000	
more than 20,000	2500	

~~(3)(a) Process~~

Process weight rate (pounds per hour)	Permit to install	38460
0 to 1000	\$ 200	38461
1001 to 5000	400	38462
5001 to 10,000	600	38463
10,001 to 50,000	800	38464
more than 50,000	1000	38465

~~In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed.~~ 38466
38467

~~(b) Notwithstanding division (B)(3)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees established in division (B)(3)(c) of this section for a process used in any of the following industries, as identified by the applicable four digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1972, as revised:~~ 38468
38469
38470
38471
38472
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38476

~~1211 Bituminous coal and lignite mining;~~ 38477

~~1213 Bituminous coal and lignite mining services;~~ 38478

~~1411 Dimension stone;~~ 38479

~~1422 Crushed and broken limestone;~~ 38480

~~1427 Crushed and broken stone, not elsewhere classified;~~ 38481

~~1442 Construction sand and gravel;~~ 38482

~~1446 Industrial sand;~~ 38483

~~3281 Cut stone and stone products;~~ 38484

~~3295 Minerals and earth, ground or otherwise treated.~~ 38485

~~(c) The fees established in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process listed in division (B)(3)(b) of this section:~~ 38486
38487
38488
38489

Process weight rate (pounds per hour)	Permit to install	38490
0 to 1000	\$ 200	38491
10,001 to 50,000	300	38492
50,001 to 100,000	400	38493
100,001 to 200,000	500	38494
200,001 to 400,000	600	38495
400,001 or more	700	38496
(4) Storage tanks		38497
Gallons (maximum useful capacity)	Permit to install	38498
0 to 20,000	\$ 100	38499
20,001 to 40,000	150	38500
40,001 to 100,000	200	38501
100,001 to 250,000	250	38502
250,001 to 500,000	350	38503
500,001 to 1,000,000	500	38504
1,000,001 or greater	750	38505
(5) Gasoline/fuel dispensing facilities		38506
For each gasoline/fuel dispensing facility	Permit to install	38507
	\$ 100	38508
(6) Dry cleaning facilities		38509
For each dry cleaning facility	Permit to install	38510
(includes all units at the facility)	\$ 100	38511
(7) Registration status		38512
For each source covered	Permit to install	38513
by registration status	\$ 75	38514
(C)(1) Except as otherwise provided in division (C)(2) of		38515
this section, beginning July 1, 1994, each person who owns or		38516
operates an air contaminant source and who is required to apply		38517
for and obtain a Title V permit under section 3704.036 of the		38518
Revised Code shall pay the fees set forth in <u>this</u> division (C)(1)		38519
of this section. For the purposes of <u>that</u> <u>this</u> division, total		38520
emissions of air contaminants may be calculated using engineering		38521

calculations, emissions factors, material balance calculations, or 38522
performance testing procedures, as authorized by the director. 38523

The following fees shall be assessed on the total actual 38524
emissions from a source in tons per year of the regulated 38525
pollutants particulate matter, sulfur dioxide, nitrogen oxides, 38526
organic compounds, and lead: 38527

~~(a)~~(1) Fifteen dollars per ton on the total actual emissions 38528
of each such regulated pollutant during the period July through 38529
December 1993, to be collected no sooner than July 1, 1994; 38530

~~(b)~~(2) Twenty dollars per ton on the total actual emissions 38531
of each such regulated pollutant during calendar year 1994, to be 38532
collected no sooner than April 15, 1995; 38533

~~(c)~~(3) Twenty-five dollars per ton on the total actual 38534
emissions of each such regulated pollutant in calendar year 1995, 38535
and each subsequent calendar year, to be collected no sooner than 38536
the fifteenth day of April of the year next succeeding the 38537
calendar year in which the emissions occurred. 38538

The fees levied under this division ~~(C)(1) of this section~~ do 38539
not apply to that portion of the emissions of a regulated 38540
pollutant at a facility that exceed four thousand tons during a 38541
calendar year. 38542

~~(2)~~(C)(1) The fees assessed under division ~~(C)(1)(B)~~ of this 38543
section are for the purpose of providing funding for the Title V 38544
permit program. 38545

~~(3)~~(2) The fees assessed under division ~~(C)(1)(B)~~ of this 38546
section do not apply to emissions from any electric generating 38547
unit designated as a Phase I unit under Title IV of the federal 38548
Clean Air Act prior to calendar year 2000. Those fees shall be 38549
assessed on the emissions from such a generating unit commencing 38550
in calendar year 2001 based upon the total actual emissions from 38551
the generating unit during calendar year 2000 and shall continue 38552

to be assessed each subsequent calendar year based on the total 38553
actual emissions from the generating unit during the preceding 38554
calendar year. 38555

~~(4)~~(3) The director shall issue invoices to owners or 38556
operators of air contaminant sources who are required to pay a fee 38557
assessed under division ~~(C)~~(B) or (D) of this section. Any such 38558
invoice shall be issued no sooner than the applicable date when 38559
the fee first may be collected in a year under the applicable 38560
division, shall identify the nature and amount of the fee 38561
assessed, and shall indicate that the fee is required to be paid 38562
within thirty days after the issuance of the invoice. 38563

(D)(1) Except as provided in division (D)(3) of this section, 38564
from January 1, 1994, through December 31, 2003, each person who 38565
owns or operates an air contaminant source; who is required to 38566
apply for a permit to operate pursuant to rules adopted under 38567
division (G), or a variance pursuant to division (H), of section 38568
3704.03 of the Revised Code; and who is not required to apply for 38569
and obtain a Title V permit under section 3704.036 of the Revised 38570
Code shall pay a single fee based upon the sum of the actual 38571
annual emissions from the facility of the regulated pollutants 38572
particulate matter, sulfur dioxide, nitrogen oxides, organic 38573
compounds, and lead in accordance with the following schedule: 38574

Total tons per year of regulated pollutants emitted	Annual fee per facility	38575 38576 38577
More than 0, but less than 50	\$ 75	38578
50 or more, but less than 100	300	38579
100 or more	700	38580

(2) Except as provided in division (D)(3) of this section, 38581
beginning January 1, 2004, each person who owns or operates an air 38582
contaminant source; who is required to apply for a permit to 38583
operate pursuant to rules adopted under division (G), or a 38584

variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.03 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility	
More than 0, but less than 10	\$ 100	
10 or more, but less than 50	200	
50 or more, but less than 100	300	
100 or more	700	

(3)(a) As used in division (D) of this section, "synthetic minor facility" means a facility for which one or more permits to install or permits to operate have been issued for the air contaminant sources at the facility that include terms and conditions that lower the facility's potential to emit air contaminants below the major source thresholds established in rules adopted under section 3704.036 of the Revised Code.

(b) Beginning January 1, 2000, through June 30, 2014, each person who owns or operates a synthetic minor facility shall pay an annual fee based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead in accordance with the following schedule:

Combined total tons per year of all regulated pollutants emitted	Annual fee per facility	
Less than 10	\$ 170	
10 or more, but less than 20	340	

20 or more, but less than 30	670	38617
30 or more, but less than 40	1,010	38618
40 or more, but less than 50	1,340	38619
50 or more, but less than 60	1,680	38620
60 or more, but less than 70	2,010	38621
70 or more, but less than 80	2,350	38622
80 or more, but less than 90	2,680	38623
90 or more, but less than 100	3,020	38624
100 or more	3,350	38625

(4) The fees assessed under division (D)(1) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 1995. The fees assessed under division (D)(2) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 2005. The fees assessed under division (D)(3) of this section shall be collected no sooner than the fifteenth day of April, commencing in 2000. The fees assessed under division (D) of this section in a calendar year shall be based upon the sum of the actual emissions of those regulated pollutants during the preceding calendar year. For the purpose of division (D) of this section, emissions of air contaminants may be calculated using engineering calculations, emission factors, material balance calculations, or performance testing procedures, as authorized by the director. The director, by rule, may require persons who are required to pay the fees assessed under division (D) of this section to pay those fees biennially rather than annually.

(E)(1) Consistent with the need to cover the reasonable costs of the Title V permit program, the director annually shall increase the fees prescribed in division ~~(C)(1)~~(B) of this section by the percentage, if any, by which the consumer price index for the most recent calendar year ending before the beginning of a year exceeds the consumer price index for calendar year 1989. Upon calculating an increase in fees authorized by division (E)(1) of

this section, the director shall compile revised fee schedules for 38650
the purposes of division ~~(C)~~(1)~~(B)~~ of this section and shall make 38651
the revised schedules available to persons required to pay the 38652
fees assessed under that division and to the public. 38653

(2) For the purposes of division (E)(1) of this section: 38654

(a) The consumer price index for any year is the average of 38655
the consumer price index for all urban consumers published by the 38656
United States department of labor as of the close of the 38657
twelve-month period ending on the thirty-first day of August of 38658
that year. 38659

(b) If the 1989 consumer price index is revised, the director 38660
shall use the revision of the consumer price index that is most 38661
consistent with that for calendar year 1989. 38662

(F) Each person who is issued a permit to install pursuant to 38663
rules adopted under division (F) of section 3704.03 of the Revised 38664
Code on or after July 1, 2003, shall pay the fees specified in the 38665
following schedules: 38666

(1) Fuel-burning equipment (boilers, furnaces, or process 38667
heaters used in the process of burning fuel for the primary 38668
purpose of producing heat or power by indirect heat transfer) 38669
Input capacity (maximum) 38670

(million British thermal units per hour)	Permit to install	
Greater than 0, but less than 10	\$ 200	38671
10 or more, but less than 100	400	38672
100 or more, but less than 300	1000	38673
300 or more, but less than 500	2250	38674
500 or more, but less than 1000	3750	38675
1000 or more, but less than 5000	6000	38676
5000 or more	9000	38677

Units burning exclusively natural gas, number two fuel oil, 38678
or both shall be assessed a fee that is one-half the applicable 38679
38680

amount shown in division (F)(1) of this section.		38681
(2) Combustion turbines and stationary internal combustion engines designed to generate electricity		38682
Generating capacity (mega watts)	Permit to install	38683
0 or more, but less than 10	\$ 25	38684
10 or more, but less than 25	150	38685
25 or more, but less than 50	300	38686
50 or more, but less than 100	500	38687
100 or more, but less than 250	1000	38688
250 or more	2000	38689
(3) Incinerators		38690
Input capacity (pounds per hour)	Permit to install	38691
0 to 100	\$ 100	38692
101 to 500	500	38693
501 to 2000	1000	38694
2001 to 20,000	1500	38695
more than 20,000	3750	38696
(4)(a) Process		38697
Process weight rate (pounds per hour)	Permit to install	38698
0 to 1000	\$ 200	38699
1001 to 5000	500	38700
5001 to 10,000	750	38701
10,001 to 50,000	1000	38702
more than 50,000	1250	38703
In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed. A boiler, furnace, combustion turbine, stationary internal combustion engine, or process heater designed to provide direct heat or power to a process not designed to generate electricity shall be assessed a fee established in division (F)(4)(a) of this section. A combustion turbine or stationary internal combustion engine designed to generate electricity shall be assessed a fee		38704
		38705
		38706
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		38711
		38712

established in division (F)(2) of this section.	38713	
(b) Notwithstanding division (F)(4)(a) of this section, any	38714	
person issued a permit to install pursuant to rules adopted under	38715	
division (F) of section 3704.03 of the Revised Code shall pay the	38716	
fees set forth in division (F)(4)(c) of this section for a process	38717	
used in any of the following industries, as identified by the	38718	
applicable two-digit, three-digit, or four-digit standard	38719	
industrial classification code according to the Standard	38720	
Industrial Classification Manual published by the United States	38721	
office of management and budget in the executive office of the	38722	
president, 1987, as revised:	38723	
Major group 10, metal mining;	38724	
Major group 12, coal mining;	38725	
Major group 14, mining and quarrying of nonmetallic minerals;	38726	
Industry group 204, grain mill products;	38727	
2873 Nitrogen fertilizers;	38728	
2874 Phosphatic fertilizers;	38729	
3281 Cut stone and stone products;	38730	
3295 Minerals and earth, ground or otherwise treated;	38731	
4221 Grain elevators (storage only);	38732	
5159 Farm related raw materials;	38733	
5261 Retail nurseries and lawn and garden supply stores.	38734	
(c) The fees set forth in the following schedule apply to the	38735	
issuance of a permit to install pursuant to rules adopted under	38736	
division (F) of section 3704.03 of the Revised Code for a process	38737	
identified in division (F)(4)(b) of this section:	38738	
Process weight rate (pounds per	Permit to install	38739
hour)		
0 to 10,000	\$ 200	38740

10,001 to 50,000	400	38741
50,001 to 100,000	500	38742
100,001 to 200,000	600	38743
200,001 to 400,000	750	38744
400,001 or more	900	38745
(5) Storage tanks		38746
Gallons (maximum useful capacity)	Permit to install	38747
0 to 20,000	\$ 100	38748
20,001 to 40,000	150	38749
40,001 to 100,000	250	38750
100,001 to 500,000	400	38751
500,001 or greater	750	38752
(6) Gasoline/fuel dispensing facilities		38753
For each gasoline/fuel		38754
dispensing facility (includes all	Permit to install	38755
units at the facility)	\$ 100	38756
(7) Dry cleaning facilities		38757
For each dry cleaning		38758
facility (includes all units	Permit to install	38759
at the facility)	\$ 100	38760
(8) Registration status		38761
For each source covered	Permit to install	38762
by registration status	\$ 75	38763
(G) An owner or operator who is responsible for an asbestos		38764
demolition or renovation project pursuant to rules adopted under		38765
section 3704.03 of the Revised Code shall pay the fees set forth		38766
in the following schedule:		38767
Action	Fee	38768
Each notification	\$75	38769
Asbestos removal	\$3/unit	38770
Asbestos cleanup	\$4/cubic yard	38771

For purposes of this division, "unit" means any combination of 38772
linear feet or square feet equal to fifty. 38773

(H) A person who is issued an extension of time for a permit 38774
to install an air contaminant source pursuant to rules adopted 38775
under division (F) of section 3704.03 of the Revised Code shall 38776
pay a fee equal to one-half the fee originally assessed for the 38777
permit to install under this section, except that the fee for such 38778
an extension shall not exceed two hundred dollars. 38779

(I) A person who is issued a modification to a permit to 38780
install an air contaminant source pursuant to rules adopted under 38781
section 3704.03 of the Revised Code shall pay a fee equal to 38782
one-half of the fee that would be assessed under this section to 38783
obtain a permit to install the source. The fee assessed by this 38784
division only applies to modifications that are initiated by the 38785
owner or operator of the source and shall not exceed two thousand 38786
dollars. 38787

(J) Notwithstanding division ~~(B)~~ or (F) of this section, a 38788
person who applies for or obtains a permit to install pursuant to 38789
rules adopted under division (F) of section 3704.03 of the Revised 38790
Code after the date actual construction of the source began shall 38791
pay a fee for the permit to install that is equal to twice the fee 38792
that otherwise would be assessed under the applicable division 38793
unless the applicant received authorization to begin construction 38794
under division (W) of section 3704.03 of the Revised Code. This 38795
division only applies to sources for which actual construction of 38796
the source begins on or after July 1, 1993. The imposition or 38797
payment of the fee established in this division does not preclude 38798
the director from taking any administrative or judicial 38799
enforcement action under this chapter, Chapter 3704., 3714., 38800
3734., or 6111. of the Revised Code, or a rule adopted under any 38801
of them, in connection with a violation of rules adopted under 38802
division (F) of section 3704.03 of the Revised Code. 38803

As used in this division, "actual construction of the source" 38804
means the initiation of physical on-site construction activities 38805
in connection with improvements to the source that are permanent 38806
in nature, including, without limitation, the installation of 38807
building supports and foundations and the laying of underground 38808
pipework. 38809

(K) ~~Fifty~~ (1) Money received under division (B) of this 38810
section shall be deposited in the state treasury to the credit of 38811
the Title V clean air fund created in section 3704.035 of the 38812
Revised Code. Annually, fifty cents per ton of each fee assessed 38813
under division ~~(C)~~(B) of this section on actual emissions from a 38814
source and received by the environmental protection agency 38815
pursuant to that division shall be ~~deposited into~~ transferred 38816
using an interstate transfer voucher to the state treasury to the 38817
credit of the small business assistance fund created in section 38818
3706.19 of the Revised Code. ~~The remainder of the moneys~~ In 38819
addition, annually, the amount of money necessary for the 38820
operation of the office of ombudsperson as determined under 38821
division (B) of that section shall be transferred to the state 38822
treasury to the credit of the small business ombudsperson fund 38823
created by that section. 38824

~~(2) Money received by the division pursuant to that division~~ 38825
~~and moneys received by the agency pursuant to divisions (D), (F),~~ 38826
~~(G), (H), (I), and (J) of this section shall be deposited in the~~ 38827
state treasury to the credit of the non-Title V clean air fund 38828
created in section 3704.035 of the Revised Code. 38829

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) 38830
or (c) of this section, a person issued a water discharge permit 38831
or renewal of a water discharge permit pursuant to Chapter 6111. 38832
of the Revised Code shall pay a fee based on each point source to 38833
which the issuance is applicable in accordance with the following 38834
schedule: 38835

Design flow discharge (gallons per day)	Fee	
0 to 1000	\$ 0	38837
1,001 to 5000	100	38838
5,001 to 50,000	200	38839
50,001 to 100,000	300	38840
100,001 to 300,000	525	38841
over 300,000	750	38842

(b) Notwithstanding the fee schedule specified in division 38843
(L)(1)(a) of this section, the fee for a water discharge permit 38844
that is applicable to coal mining operations regulated under 38845
Chapter 1513. of the Revised Code shall be two hundred fifty 38846
dollars per mine. 38847

(c) Notwithstanding the fee schedule specified in division 38848
(L)(1)(a) of this section, the fee for a water discharge permit 38849
for a public discharger identified by I in the third character of 38850
the permittee's NPDES permit number shall not exceed seven hundred 38851
fifty dollars. 38852

(2) A person applying for a plan approval for a wastewater 38853
treatment works pursuant to section 6111.44, 6111.45, or 6111.46 38854
of the Revised Code shall pay a fee of one hundred dollars plus 38855
sixty-five one-hundredths of one per cent of the estimated project 38856
cost through June 30, 2014, and one hundred dollars plus 38857
two-tenths of one per cent of the estimated project cost on and 38858
after July 1, 2014, except that the total fee shall not exceed 38859
fifteen thousand dollars through June 30, 2014, and five thousand 38860
dollars on and after July 1, 2014. The fee shall be paid at the 38861
time the application is submitted. 38862

(3) A person issued a modification of a water discharge 38863
permit shall pay a fee equal to one-half the fee that otherwise 38864
would be charged for a water discharge permit, except that the fee 38865
for the modification shall not exceed four hundred dollars. 38866

(4) A person who has entered into an agreement with the 38867

director under section 6111.14 of the Revised Code shall pay an 38868
administrative service fee for each plan submitted under that 38869
section for approval that shall not exceed the minimum amount 38870
necessary to pay administrative costs directly attributable to 38871
processing plan approvals. The director annually shall calculate 38872
the fee and shall notify all persons who have entered into 38873
agreements under that section, or who have applied for agreements, 38874
of the amount of the fee. 38875

(5)(a)(i) Not later than January 30, 2012, and January 30, 38876
2013, a person holding an NPDES discharge permit issued pursuant 38877
to Chapter 6111. of the Revised Code with an average daily 38878
discharge flow of five thousand gallons or more shall pay a 38879
nonrefundable annual discharge fee. Any person who fails to pay 38880
the fee at that time shall pay an additional amount that equals 38881
ten per cent of the required annual discharge fee. 38882

(ii) The billing year for the annual discharge fee 38883
established in division (L)(5)(a)(i) of this section shall consist 38884
of a twelve-month period beginning on the first day of January of 38885
the year preceding the date when the annual discharge fee is due. 38886
In the case of an existing source that permanently ceases to 38887
discharge during a billing year, the director shall reduce the 38888
annual discharge fee, including the surcharge applicable to 38889
certain industrial facilities pursuant to division (L)(5)(c) of 38890
this section, by one-twelfth for each full month during the 38891
billing year that the source was not discharging, but only if the 38892
person holding the NPDES discharge permit for the source notifies 38893
the director in writing, not later than the first day of October 38894
of the billing year, of the circumstances causing the cessation of 38895
discharge. 38896

(iii) The annual discharge fee established in division 38897
(L)(5)(a)(i) of this section, except for the surcharge applicable 38898
to certain industrial facilities pursuant to division (L)(5)(c) of 38899

this section, shall be based upon the average daily discharge flow 38900
in gallons per day calculated using first day of May through 38901
thirty-first day of October flow data for the period two years 38902
prior to the date on which the fee is due. In the case of NPDES 38903
discharge permits for new sources, the fee shall be calculated 38904
using the average daily design flow of the facility until actual 38905
average daily discharge flow values are available for the time 38906
period specified in division (L)(5)(a)(iii) of this section. The 38907
annual discharge fee may be prorated for a new source as described 38908
in division (L)(5)(a)(ii) of this section. 38909

(b) An NPDES permit holder that is a public discharger shall 38910
pay the fee specified in the following schedule: 38911

Average daily	Fee due by	
discharge flow	January 30,	
	2012, and	
	January 30, 2013	
5,000 to 49,999	\$ 200	38916
50,000 to 100,000	500	38917
100,001 to 250,000	1,050	38918
250,001 to 1,000,000	2,600	38919
1,000,001 to 5,000,000	5,200	38920
5,000,001 to 10,000,000	10,350	38921
10,000,001 to 20,000,000	15,550	38922
20,000,001 to 50,000,000	25,900	38923
50,000,001 to 100,000,000	41,400	38924
100,000,001 or more	62,100	38925

Public dischargers owning or operating two or more publicly 38926
owned treatment works serving the same political subdivision, as 38927
"treatment works" is defined in section 6111.01 of the Revised 38928
Code, and that serve exclusively political subdivisions having a 38929
population of fewer than one hundred thousand shall pay an annual 38930
discharge fee under division (L)(5)(b) of this section that is 38931

based on the combined average daily discharge flow of the 38932
treatment works. 38933

(c) An NPDES permit holder that is an industrial discharger, 38934
other than a coal mining operator identified by P in the third 38935
character of the permittee's NPDES permit number, shall pay the 38936
fee specified in the following schedule: 38937

Average daily	Fee due by	
discharge flow	January 30,	
	2012, and	
	January 30, 2013	
5,000 to 49,999	\$ 250	38942
50,000 to 250,000	1,200	38943
250,001 to 1,000,000	2,950	38944
1,000,001 to 5,000,000	5,850	38945
5,000,001 to 10,000,000	8,800	38946
10,000,001 to 20,000,000	11,700	38947
20,000,001 to 100,000,000	14,050	38948
100,000,001 to 250,000,000	16,400	38949
250,000,001 or more	18,700	38950

In addition to the fee specified in the above schedule, an 38951
NPDES permit holder that is an industrial discharger classified as 38952
a major discharger during all or part of the annual discharge fee 38953
billing year specified in division (L)(5)(a)(ii) of this section 38954
shall pay a nonrefundable annual surcharge of seven thousand five 38955
hundred dollars not later than January 30, 2012, and not later 38956
than January 30, 2013. Any person who fails to pay the surcharge 38957
at that time shall pay an additional amount that equals ten per 38958
cent of the amount of the surcharge. 38959

(d) Notwithstanding divisions (L)(5)(b) and (c) of this 38960
section, a public discharger identified by I in the third 38961
character of the permittee's NPDES permit number and an industrial 38962
discharger identified by I, J, L, V, W, X, Y, or Z in the third 38963

character of the permittee's NPDES permit number shall pay a 38964
nonrefundable annual discharge fee of one hundred eighty dollars 38965
not later than January 30, 2012, and not later than January 30, 38966
2013. Any person who fails to pay the fee at that time shall pay 38967
an additional amount that equals ten per cent of the required fee. 38968

(6) Each person obtaining a national pollutant discharge 38969
elimination system general or individual permit for municipal 38970
storm water discharge shall pay a nonrefundable storm water 38971
discharge fee of one hundred dollars per square mile of area 38972
permitted. The fee shall not exceed ten thousand dollars and shall 38973
be payable on or before January 30, 2004, and the thirtieth day of 38974
January of each year thereafter. Any person who fails to pay the 38975
fee on the date specified in division (L)(6) of this section shall 38976
pay an additional amount per year equal to ten per cent of the 38977
annual fee that is unpaid. 38978

(7) The director shall transmit all moneys collected under 38979
division (L) of this section to the treasurer of state for deposit 38980
into the state treasury to the credit of the surface water 38981
protection fund created in section 6111.038 of the Revised Code. 38982

(8) As used in division (L) of this section: 38983

(a) "NPDES" means the federally approved national pollutant 38984
discharge elimination system program for issuing, modifying, 38985
revoking, reissuing, terminating, monitoring, and enforcing 38986
permits and imposing and enforcing pretreatment requirements under 38987
Chapter 6111. of the Revised Code and rules adopted under it. 38988

(b) "Public discharger" means any holder of an NPDES permit 38989
identified by P in the second character of the NPDES permit number 38990
assigned by the director. 38991

(c) "Industrial discharger" means any holder of an NPDES 38992
permit identified by I in the second character of the NPDES permit 38993
number assigned by the director. 38994

(d) "Major discharger" means any holder of an NPDES permit classified as major by the regional administrator of the United States environmental protection agency in conjunction with the director. 38995
 38996
 38997
 38998

(M) Through June 30, 2014, a person applying for a license or license renewal to operate a public water system under section 6109.21 of the Revised Code shall pay the appropriate fee established under this division at the time of application to the director. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code. 38999
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Except as provided in division (M)(4) of this section, fees required under this division shall be calculated and paid in accordance with the following schedule: 39009
 39010
 39011

(1) For the initial license required under ~~division (A)(1) of~~ section 6109.21 of the Revised Code for any public water system that is a community water system as defined in section 6109.01 of the Revised Code, and for each license renewal required for such a system prior to January 31, 2014, the fee is: 39012
 39013
 39014
 39015
 39016

Number of service connections	Fee amount	
Not more than 49	\$ 112	39017
50 to 99	176	39018
		39019
Number of service connections	Average cost per connection	
100 to 2,499	\$ 1.92	39020
2,500 to 4,999	1.48	39021
5,000 to 7,499	1.42	39022
7,500 to 9,999	1.34	39023
10,000 to 14,999	1.16	39024
15,000 to 24,999	1.10	39025
		39026

25,000 to 49,999	1.04	39027
50,000 to 99,999	.92	39028
100,000 to 149,999	.86	39029
150,000 to 199,999	.80	39030
200,000 or more	.76	39031

A public water system may determine how it will pay the total amount of the fee calculated under division (M)(1) of this section, including the assessment of additional user fees that may be assessed on a volumetric basis.

As used in division (M)(1) of this section, "service connection" means the number of active or inactive pipes, goosenecks, pigtails, and any other fittings connecting a water main to any building outlet.

(2) For the initial license required under ~~division (A)(2) of~~ section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a system prior to January 31, 2014, the fee is:

Population served	Fee amount	
Fewer than 150	\$ 112	39046
150 to 299	176	39047
300 to 749	384	39048
750 to 1,499	628	39049
1,500 to 2,999	1,268	39050
3,000 to 7,499	2,816	39051
7,500 to 14,999	5,510	39052
15,000 to 22,499	9,048	39053
22,500 to 29,999	12,430	39054
30,000 or more	16,820	39055

As used in division (M)(2) of this section, "population served" means the total number of individuals having access to the water supply during a twenty-four-hour period for at least sixty

days during any calendar year. In the absence of a specific 39059
population count, that number shall be calculated at the rate of 39060
three individuals per service connection. 39061

(3) For the initial license required under ~~division (A)(3) of~~ 39062
section 6109.21 of the Revised Code for any public water system 39063
that is not a community water system and serves a transient 39064
population, and for each license renewal required for such a 39065
system prior to January 31, 2014, the fee is: 39066

Number of wells or sources, other 39067 than surface water, supplying system	Fee amount	
1	\$112	39068
2	112	39069
3	176	39070
4	278	39071
5	568	39072
System designated as using a 39073 surface water source	792	39074

As used in division (M)(3) of this section, "number of wells 39075
or sources, other than surface water, supplying system" means 39076
those wells or sources that are physically connected to the 39077
plumbing system serving the public water system. 39078

(4) A public water system designated as using a surface water 39079
source shall pay a fee of seven hundred ninety-two dollars or the 39080
amount calculated under division (M)(1) or (2) of this section, 39081
whichever is greater. 39082

(N)(1) A person applying for a plan approval for a public 39083
water supply system under section 6109.07 of the Revised Code 39084
shall pay a fee of one hundred fifty dollars plus thirty-five 39085
hundredths of one per cent of the estimated project cost, except 39086
that the total fee shall not exceed twenty thousand dollars 39087
through June 30, 2014, and fifteen thousand dollars on and after 39088
July 1, 2014. The fee shall be paid at the time the application is 39089

submitted. 39090

(2) A person who has entered into an agreement with the 39091
director under division (A)(2) of section 6109.07 of the Revised 39092
Code shall pay an administrative service fee for each plan 39093
submitted under that section for approval that shall not exceed 39094
the minimum amount necessary to pay administrative costs directly 39095
attributable to processing plan approvals. The director annually 39096
shall calculate the fee and shall notify all persons that have 39097
entered into agreements under that division, or who have applied 39098
for agreements, of the amount of the fee. 39099

(3) Through June 30, 2014, the following fee, on a per survey 39100
basis, shall be charged any person for services rendered by the 39101
state in the evaluation of laboratories and laboratory personnel 39102
for compliance with accepted analytical techniques and procedures 39103
established pursuant to Chapter 6109. of the Revised Code for 39104
determining the qualitative characteristics of water: 39105

microbiological		39106
MMO-MUG	\$2,000	39107
MF	2,100	39108
MMO-MUG and MF	2,550	39109
organic chemical	5,400	39110
trace metals	5,400	39111
standard chemistry	2,800	39112
limited chemistry	1,550	39113

On and after July 1, 2014, the following fee, on a per survey 39114
basis, shall be charged any such person: 39115

microbiological	\$ 1,650	39116
organic chemicals	3,500	39117
trace metals	3,500	39118
standard chemistry	1,800	39119
limited chemistry	1,000	39120

The fee for those services shall be paid at the time the request 39121

for the survey is made. Through June 30, 2014, an individual 39122
laboratory shall not be assessed a fee under this division more 39123
than once in any three-year period unless the person requests the 39124
addition of analytical methods or analysts, in which case the 39125
person shall pay eighteen hundred dollars for each additional 39126
survey requested. 39127

As used in division (N)(3) of this section: 39128

(a) "MF" means microfiltration. 39129

(b) "MMO" means minimal medium ONPG. 39130

(c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide. 39131

(d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside. 39132

The director shall transmit all moneys collected under this 39133
division to the treasurer of state for deposit into the drinking 39134
water protection fund created in section 6109.30 of the Revised 39135
Code. 39136

(O) Any person applying to the director ~~for~~ to take an 39137
examination for certification as an operator of a water supply 39138
system or wastewater system under Chapter 6109. or 6111. of the 39139
Revised Code that is administered by the director, at the time the 39140
application is submitted, shall pay ~~an application fee of~~ 39141
~~forty five dollars through November 30, 2014, and twenty five~~ 39142
~~dollars on and after December 1, 2014. Upon approval from the~~ 39143
~~director that the applicant is eligible to take the examination~~ 39144
~~therefor, the applicant shall pay~~ a fee in accordance with the 39145
following schedule through November 30, 2014: 39146

Class A operator	\$35 <u>80</u>	39147
Class I operator	60 <u>105</u>	39148
Class II operator	75 <u>120</u>	39149
Class III operator	85 <u>130</u>	39150
Class IV operator	100 <u>145</u>	39151

On and after December 1, 2014, the applicant shall pay a fee 39152
in accordance with the following schedule: 39153

Class A operator	\$25 <u>50</u>	39154
Class I operator	\$45 <u>70</u>	39155
Class II operator	55 <u>80</u>	39156
Class III operator	65 <u>90</u>	39157
Class IV operator	75 <u>100</u>	39158

Any person applying to the director for certification as an 39159
operator of a water supply system or wastewater system who has 39160
passed an examination administered by an examination provider 39161
approved by the director shall pay a certification fee of 39162
forty-five dollars. 39163

A person shall pay a biennial certification renewal fee for 39164
each applicable class of certification in accordance with the 39165
following schedule: 39166

Class A operator	\$25	39167
Class I operator	35	39168
Class II operator	45	39169
Class III operator	55	39170
Class IV operator	65	39171

If a certification renewal fee is received by the director 39172
more than thirty days, but not more than one year after the 39173
expiration date of the certification, the person shall pay a 39174
certification renewal fee in accordance with the following 39175
schedule: 39176

Class A operator	\$45	39177
Class I operator	55	39178
Class II operator	65	39179
Class III operator	75	39180
Class IV operator	85	39181

A person who requests a replacement certificate shall pay a 39182
fee of twenty-five dollars at the time the request is made. 39183

Any person applying to be a water supply system or wastewater treatment system examination provider shall pay an application fee of five hundred dollars. Any person approved by the director as a water supply system or wastewater treatment system examination provider shall pay an annual fee that is equal to ten per cent of the fees that the provider assesses and collects for administering water supply system or wastewater treatment system certification examinations in this state for the calendar year. The fee shall be paid not later than forty-five days after the end of a calendar year.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(P) Any person submitting an application for an industrial water pollution control certificate under section 6111.31 of the Revised Code, as that section existed before its repeal by H.B. 95 of the 125th general assembly, shall pay a nonrefundable fee of five hundred dollars at the time the application is submitted. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. A person paying a certificate fee under this division shall not pay an application fee under division (S)(1) of this section. On and after June 26, 2003, persons shall file such applications and pay the fee as required under sections 5709.20 to 5709.27 of the Revised Code, and proceeds from the fee shall be credited as provided in section 5709.212 of the Revised Code.

(Q) Except as otherwise provided in division (R) of this section, a person issued a permit by the director for a new solid waste disposal facility other than an incineration or composting facility, a new infectious waste treatment facility other than an

incineration facility, or a modification of such an existing 39216
facility that includes an increase in the total disposal or 39217
treatment capacity of the facility pursuant to Chapter 3734. of 39218
the Revised Code shall pay a fee of ten dollars per thousand cubic 39219
yards of disposal or treatment capacity, or one thousand dollars, 39220
whichever is greater, except that the total fee for any such 39221
permit shall not exceed eighty thousand dollars. A person issued a 39222
modification of a permit for a solid waste disposal facility or an 39223
infectious waste treatment facility that does not involve an 39224
increase in the total disposal or treatment capacity of the 39225
facility shall pay a fee of one thousand dollars. A person issued 39226
a permit to install a new, or modify an existing, solid waste 39227
transfer facility under that chapter shall pay a fee of two 39228
thousand five hundred dollars. A person issued a permit to install 39229
a new or to modify an existing solid waste incineration or 39230
composting facility, or an existing infectious waste treatment 39231
facility using incineration as its principal method of treatment, 39232
under that chapter shall pay a fee of one thousand dollars. The 39233
increases in the permit fees under this division resulting from 39234
the amendments made by Amended Substitute House Bill 592 of the 39235
117th general assembly do not apply to any person who submitted an 39236
application for a permit to install a new, or modify an existing, 39237
solid waste disposal facility under that chapter prior to 39238
September 1, 1987; any such person shall pay the permit fee 39239
established in this division as it existed prior to June 24, 1988. 39240
In addition to the applicable permit fee under this division, a 39241
person issued a permit to install or modify a solid waste facility 39242
or an infectious waste treatment facility under that chapter who 39243
fails to pay the permit fee to the director in compliance with 39244
division (V) of this section shall pay an additional ten per cent 39245
of the amount of the fee for each week that the permit fee is 39246
late. 39247

Permit and late payment fees paid to the director under this 39248

division shall be credited to the general revenue fund. 39249

(R)(1) A person issued a registration certificate for a scrap 39250
tire collection facility under section 3734.75 of the Revised Code 39251
shall pay a fee of two hundred dollars, except that if the 39252
facility is owned or operated by a motor vehicle salvage dealer 39253
licensed under Chapter 4738. of the Revised Code, the person shall 39254
pay a fee of twenty-five dollars. 39255

(2) A person issued a registration certificate for a new 39256
scrap tire storage facility under section 3734.76 of the Revised 39257
Code shall pay a fee of three hundred dollars, except that if the 39258
facility is owned or operated by a motor vehicle salvage dealer 39259
licensed under Chapter 4738. of the Revised Code, the person shall 39260
pay a fee of twenty-five dollars. 39261

(3) A person issued a permit for a scrap tire storage 39262
facility under section 3734.76 of the Revised Code shall pay a fee 39263
of one thousand dollars, except that if the facility is owned or 39264
operated by a motor vehicle salvage dealer licensed under Chapter 39265
4738. of the Revised Code, the person shall pay a fee of fifty 39266
dollars. 39267

(4) A person issued a permit for a scrap tire monocell or 39268
monofill facility under section 3734.77 of the Revised Code shall 39269
pay a fee of ten dollars per thousand cubic yards of disposal 39270
capacity or one thousand dollars, whichever is greater, except 39271
that the total fee for any such permit shall not exceed eighty 39272
thousand dollars. 39273

(5) A person issued a registration certificate for a scrap 39274
tire recovery facility under section 3734.78 of the Revised Code 39275
shall pay a fee of one hundred dollars. 39276

(6) A person issued a permit for a scrap tire recovery 39277
facility under section 3734.78 of the Revised Code shall pay a fee 39278
of one thousand dollars. 39279

(7) In addition to the applicable registration certificate or permit fee under divisions (R)(1) to (6) of this section, a person issued a registration certificate or permit for any such scrap tire facility who fails to pay the registration certificate or permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the fee is late.

(8) The registration certificate, permit, and late payment fees paid to the director under divisions (R)(1) to (7) of this section shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code.

(S)(1) Except as provided by divisions (L), (M), (N), (O), (P), and (S)(2) of this section, division (A)(2) of section 3734.05 of the Revised Code, section 3734.79 of the Revised Code, and rules adopted under division (T)(1) of this section, any person applying for a registration certificate under section 3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, variance, or plan approval under Chapter 3734. of the Revised Code shall pay a nonrefundable fee of fifteen dollars at the time the application is submitted.

Except as otherwise provided, any person applying for a permit, variance, or plan approval under Chapter 6109. or 6111. of the Revised Code shall pay a nonrefundable fee of one hundred dollars at the time the application is submitted through June 30, 2014, and a nonrefundable fee of fifteen dollars at the time the application is submitted on and after July 1, 2014. Except as provided in division (S)(3) of this section, through June 30, 2014, any person applying for a national pollutant discharge elimination system permit under Chapter 6111. of the Revised Code shall pay a nonrefundable fee of two hundred dollars at the time of application for the permit. On and after July 1, 2014, such a person shall pay a nonrefundable fee of fifteen dollars at the

time of application. 39312

In addition to the application fee established under division 39313
(S)(1) of this section, any person applying for a national 39314
pollutant discharge elimination system general storm water 39315
construction permit shall pay a nonrefundable fee of twenty 39316
dollars per acre for each acre that is permitted above five acres 39317
at the time the application is submitted. However, the per acreage 39318
fee shall not exceed three hundred dollars. In addition, any 39319
person applying for a national pollutant discharge elimination 39320
system general storm water industrial permit shall pay a 39321
nonrefundable fee of one hundred fifty dollars at the time the 39322
application is submitted. 39323

The director shall transmit all moneys collected under 39324
division (S)(1) of this section pursuant to Chapter 6109. of the 39325
Revised Code to the treasurer of state for deposit into the 39326
drinking water protection fund created in section 6109.30 of the 39327
Revised Code. 39328

The director shall transmit all moneys collected under 39329
division (S)(1) of this section pursuant to Chapter 6111. of the 39330
Revised Code and under division (S)(3) of this section to the 39331
treasurer of state for deposit into the surface water protection 39332
fund created in section 6111.038 of the Revised Code. 39333

If a registration certificate is issued under section 39334
3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of 39335
the application fee paid shall be deducted from the amount of the 39336
registration certificate fee due under division (R)(1), (2), or 39337
(5) of this section, as applicable. 39338

If a person submits an electronic application for a 39339
registration certificate, permit, variance, or plan approval for 39340
which an application fee is established under division (S)(1) of 39341
this section, the person shall pay the applicable application fee 39342

as expeditiously as possible after the submission of the 39343
electronic application. An application for a registration 39344
certificate, permit, variance, or plan approval for which an 39345
application fee is established under division (S)(1) of this 39346
section shall not be reviewed or processed until the applicable 39347
application fee, and any other fees established under this 39348
division, are paid. 39349

(2) Division (S)(1) of this section does not apply to an 39350
application for a registration certificate for a scrap tire 39351
collection or storage facility submitted under section 3734.75 or 39352
3734.76 of the Revised Code, as applicable, if the owner or 39353
operator of the facility or proposed facility is a motor vehicle 39354
salvage dealer licensed under Chapter 4738. of the Revised Code. 39355

(3) A person applying for coverage under a national pollutant 39356
discharge elimination system general discharge permit for 39357
household sewage treatment systems shall pay the following fees: 39358

(a) A nonrefundable fee of two hundred dollars at the time of 39359
application for initial permit coverage; 39360

(b) A nonrefundable fee of one hundred dollars at the time of 39361
application for a renewal of permit coverage. 39362

(T) The director may adopt, amend, and rescind rules in 39363
accordance with Chapter 119. of the Revised Code that do all of 39364
the following: 39365

(1) Prescribe fees to be paid by applicants for and holders 39366
of any license, permit, variance, plan approval, or certification 39367
required or authorized by Chapter 3704., 3734., 6109., or 6111. of 39368
the Revised Code that are not specifically established in this 39369
section. The fees shall be designed to defray the cost of 39370
processing, issuing, revoking, modifying, denying, and enforcing 39371
the licenses, permits, variances, plan approvals, and 39372
certifications. 39373

The director shall transmit all moneys collected under rules 39374
adopted under division (T)(1) of this section pursuant to Chapter 39375
6109. of the Revised Code to the treasurer of state for deposit 39376
into the drinking water protection fund created in section 6109.30 39377
of the Revised Code. 39378

The director shall transmit all moneys collected under rules 39379
adopted under division (T)(1) of this section pursuant to Chapter 39380
6111. of the Revised Code to the treasurer of state for deposit 39381
into the surface water protection fund created in section 6111.038 39382
of the Revised Code. 39383

(2) Exempt the state and political subdivisions thereof, 39384
including education facilities or medical facilities owned by the 39385
state or a political subdivision, or any person exempted from 39386
taxation by section 5709.07 or 5709.12 of the Revised Code, from 39387
any fee required by this section; 39388

(3) Provide for the waiver of any fee, or any part thereof, 39389
otherwise required by this section whenever the director 39390
determines that the imposition of the fee would constitute an 39391
unreasonable cost of doing business for any applicant, class of 39392
applicants, or other person subject to the fee; 39393

(4) Prescribe measures that the director considers necessary 39394
to carry out this section. 39395

(U) When the director reasonably demonstrates that the direct 39396
cost to the state associated with the issuance of a permit to 39397
install, license, variance, plan approval, or certification 39398
exceeds the fee for the issuance or review specified by this 39399
section, the director may condition the issuance or review on the 39400
payment by the person receiving the issuance or review of, in 39401
addition to the fee specified by this section, the amount, or any 39402
portion thereof, in excess of the fee specified under this 39403
section. The director shall not so condition issuances for which 39404

~~fees are a fee is~~ prescribed in ~~divisions (B)(7) and~~ division 39405
(L)(1)(b) of this section. 39406

(V) Except as provided in divisions (L), (M), and (P) of this 39407
section or unless otherwise prescribed by a rule of the director 39408
adopted pursuant to Chapter 119. of the Revised Code, all fees 39409
required by this section are payable within thirty days after the 39410
issuance of an invoice for the fee by the director or the 39411
effective date of the issuance of the license, permit, variance, 39412
plan approval, or certification. If payment is late, the person 39413
responsible for payment of the fee shall pay an additional ten per 39414
cent of the amount due for each month that it is late. 39415

(W) As used in this section, "fuel-burning equipment," 39416
"fuel-burning equipment input capacity," "incinerator," 39417
"incinerator input capacity," "process," "process weight rate," 39418
"storage tank," "gasoline dispensing facility," "dry cleaning 39419
facility," "design flow discharge," and "new source treatment 39420
works" have the meanings ascribed to those terms by applicable 39421
rules or standards adopted by the director under Chapter 3704. or 39422
6111. of the Revised Code. 39423

(X) As used in divisions (B), ~~(C)~~, (D), (E), (F), (H), (I), 39424
and (J) of this section, and in any other provision of this 39425
section pertaining to fees paid pursuant to Chapter 3704. of the 39426
Revised Code: 39427

(1) "Facility," "federal Clean Air Act," "person," and "Title 39428
V permit" have the same meanings as in section 3704.01 of the 39429
Revised Code. 39430

(2) "Title V permit program" means the following activities 39431
as necessary to meet the requirements of Title V of the federal 39432
Clean Air Act and 40 C.F.R. part 70, including at least: 39433

(a) Preparing and adopting, if applicable, generally 39434
applicable rules or guidance regarding the permit program or its 39435

implementation or enforcement;	39436
(b) Reviewing and acting on any application for a Title V permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, permit revision, or permit renewal;	39437 39438 39439 39440
(c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry;	39441 39442 39443
(d) Determining which sources are subject to the program and implementing and enforcing the terms of any Title V permit, not including any court actions or other formal enforcement actions;	39444 39445 39446
(e) Emission and ambient monitoring;	39447
(f) Modeling, analyses, or demonstrations;	39448
(g) Preparing inventories and tracking emissions;	39449
(h) Providing direct and indirect support to small business stationary sources to determine and meet their obligations under the federal Clean Air Act pursuant to the small business stationary source technical and environmental compliance assistance program required by section 507 of that act and established in sections 3704.18, 3704.19, and 3706.19 of the Revised Code.	39450 39451 39452 39453 39454 39455 39456
(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) of this section, each sewage sludge facility shall pay a nonrefundable annual sludge fee equal to three dollars and fifty cents per dry ton of sewage sludge, including the dry tons of sewage sludge in materials derived from sewage sludge, that the sewage sludge facility treats or disposes of in this state. The annual volume of sewage sludge treated or disposed of by a sewage sludge facility shall be calculated using the first day of January through the thirty-first day of December of the calendar year	39457 39458 39459 39460 39461 39462 39463 39464 39465

preceding the date on which payment of the fee is due. 39466

(2)(a) Except as provided in division (Y)(2)(d) of this 39467
section, each sewage sludge facility shall pay a minimum annual 39468
sewage sludge fee of one hundred dollars. 39469

(b) The annual sludge fee required to be paid by a sewage 39470
sludge facility that treats or disposes of exceptional quality 39471
sludge in this state shall be thirty-five per cent less per dry 39472
ton of exceptional quality sludge than the fee assessed under 39473
division (Y)(1) of this section, subject to the following 39474
exceptions: 39475

(i) Except as provided in division (Y)(2)(d) of this section, 39476
a sewage sludge facility that treats or disposes of exceptional 39477
quality sludge shall pay a minimum annual sewage sludge fee of one 39478
hundred dollars. 39479

(ii) A sewage sludge facility that treats or disposes of 39480
exceptional quality sludge shall not be required to pay the annual 39481
sludge fee for treatment or disposal in this state of exceptional 39482
quality sludge generated outside of this state and contained in 39483
bags or other containers not greater than one hundred pounds in 39484
capacity. 39485

A thirty-five per cent reduction for exceptional quality 39486
sludge applies to the maximum annual fees established under 39487
division (Y)(3) of this section. 39488

(c) A sewage sludge facility that transfers sewage sludge to 39489
another sewage sludge facility in this state for further treatment 39490
prior to disposal in this state shall not be required to pay the 39491
annual sludge fee for the tons of sewage sludge that have been 39492
transferred. In such a case, the sewage sludge facility that 39493
disposes of the sewage sludge shall pay the annual sludge fee. 39494
However, the facility transferring the sewage sludge shall pay the 39495
one-hundred-dollar minimum fee required under division (Y)(2)(a) 39496

of this section. 39497

In the case of a sewage sludge facility that treats sewage 39498
sludge in this state and transfers it out of this state to another 39499
entity for disposal, the sewage sludge facility in this state 39500
shall be required to pay the annual sludge fee for the tons of 39501
sewage sludge that have been transferred. 39502

(d) A sewage sludge facility that generates sewage sludge 39503
resulting from an average daily discharge flow of less than five 39504
thousand gallons per day is not subject to the fees assessed under 39505
division (Y) of this section. 39506

(3) No sewage sludge facility required to pay the annual 39507
sludge fee shall be required to pay more than the maximum annual 39508
fee for each disposal method that the sewage sludge facility uses. 39509
The maximum annual fee does not include the additional amount that 39510
may be charged under division (Y)(5) of this section for late 39511
payment of the annual sludge fee. The maximum annual fee for the 39512
following methods of disposal of sewage sludge is as follows: 39513

(a) Incineration: five thousand dollars; 39514

(b) Preexisting land reclamation project or disposal in a 39515
landfill: five thousand dollars; 39516

(c) Land application, land reclamation, surface disposal, or 39517
any other disposal method not specified in division (Y)(3)(a) or 39518
(b) of this section: twenty thousand dollars. 39519

(4)(a) In the case of an entity that generates sewage sludge 39520
or a sewage sludge facility that treats sewage sludge and 39521
transfers the sewage sludge to an incineration facility for 39522
disposal, the incineration facility, and not the entity generating 39523
the sewage sludge or the sewage sludge facility treating the 39524
sewage sludge, shall pay the annual sludge fee for the tons of 39525
sewage sludge that are transferred. However, the entity or 39526
facility generating or treating the sewage sludge shall pay the 39527

one-hundred-dollar minimum fee required under division (Y)(2)(a) 39528
of this section. 39529

(b) In the case of an entity that generates sewage sludge and 39530
transfers the sewage sludge to a landfill for disposal or to a 39531
sewage sludge facility for land reclamation or surface disposal, 39532
the entity generating the sewage sludge, and not the landfill or 39533
sewage sludge facility, shall pay the annual sludge fee for the 39534
tons of sewage sludge that are transferred. 39535

(5) Not later than the first day of April of the calendar 39536
year following March 17, 2000, and each first day of April 39537
thereafter, the director shall issue invoices to persons who are 39538
required to pay the annual sludge fee. The invoice shall identify 39539
the nature and amount of the annual sludge fee assessed and state 39540
the first day of May as the deadline for receipt by the director 39541
of objections regarding the amount of the fee and the first day of 39542
July as the deadline for payment of the fee. 39543

Not later than the first day of May following receipt of an 39544
invoice, a person required to pay the annual sludge fee may submit 39545
objections to the director concerning the accuracy of information 39546
regarding the number of dry tons of sewage sludge used to 39547
calculate the amount of the annual sludge fee or regarding whether 39548
the sewage sludge qualifies for the exceptional quality sludge 39549
discount established in division (Y)(2)(b) of this section. The 39550
director may consider the objections and adjust the amount of the 39551
fee to ensure that it is accurate. 39552

If the director does not adjust the amount of the annual 39553
sludge fee in response to a person's objections, the person may 39554
appeal the director's determination in accordance with Chapter 39555
119. of the Revised Code. 39556

Not later than the first day of June, the director shall 39557
notify the objecting person regarding whether the director has 39558

found the objections to be valid and the reasons for the finding. 39559
If the director finds the objections to be valid and adjusts the 39560
amount of the annual sludge fee accordingly, the director shall 39561
issue with the notification a new invoice to the person 39562
identifying the amount of the annual sludge fee assessed and 39563
stating the first day of July as the deadline for payment. 39564

Not later than the first day of July, any person who is 39565
required to do so shall pay the annual sludge fee. Any person who 39566
is required to pay the fee, but who fails to do so on or before 39567
that date shall pay an additional amount that equals ten per cent 39568
of the required annual sludge fee. 39569

(6) The director shall transmit all moneys collected under 39570
division (Y) of this section to the treasurer of state for deposit 39571
into the surface water protection fund created in section 6111.038 39572
of the Revised Code. The moneys shall be used to defray the costs 39573
of administering and enforcing provisions in Chapter 6111. of the 39574
Revised Code and rules adopted under it that govern the use, 39575
storage, treatment, or disposal of sewage sludge. 39576

(7) Beginning in fiscal year 2001, and every two years 39577
thereafter, the director shall review the total amount of moneys 39578
generated by the annual sludge fees to determine if that amount 39579
exceeded six hundred thousand dollars in either of the two 39580
preceding fiscal years. If the total amount of moneys in the fund 39581
exceeded six hundred thousand dollars in either fiscal year, the 39582
director, after review of the fee structure and consultation with 39583
affected persons, shall issue an order reducing the amount of the 39584
fees levied under division (Y) of this section so that the 39585
estimated amount of moneys resulting from the fees will not exceed 39586
six hundred thousand dollars in any fiscal year. 39587

If, upon review of the fees under division (Y)(7) of this 39588
section and after the fees have been reduced, the director 39589
determines that the total amount of moneys collected and 39590

accumulated is less than six hundred thousand dollars, the 39591
director, after review of the fee structure and consultation with 39592
affected persons, may issue an order increasing the amount of the 39593
fees levied under division (Y) of this section so that the 39594
estimated amount of moneys resulting from the fees will be 39595
approximately six hundred thousand dollars. Fees shall never be 39596
increased to an amount exceeding the amount specified in division 39597
(Y)(7) of this section. 39598

Notwithstanding section 119.06 of the Revised Code, the 39599
director may issue an order under division (Y)(7) of this section 39600
without the necessity to hold an adjudicatory hearing in 39601
connection with the order. The issuance of an order under this 39602
division is not an act or action for purposes of section 3745.04 39603
of the Revised Code. 39604

(8) As used in division (Y) of this section: 39605

(a) "Sewage sludge facility" means an entity that performs 39606
treatment on or is responsible for the disposal of sewage sludge. 39607

(b) "Sewage sludge" means a solid, semi-solid, or liquid 39608
residue generated during the treatment of domestic sewage in a 39609
treatment works as defined in section 6111.01 of the Revised Code. 39610
"Sewage sludge" includes, but is not limited to, scum or solids 39611
removed in primary, secondary, or advanced wastewater treatment 39612
processes. "Sewage sludge" does not include ash generated during 39613
the firing of sewage sludge in a sewage sludge incinerator, grit 39614
and screenings generated during preliminary treatment of domestic 39615
sewage in a treatment works, animal manure, residue generated 39616
during treatment of animal manure, or domestic septage. 39617

(c) "Exceptional quality sludge" means sewage sludge that 39618
meets all of the following qualifications: 39619

(i) Satisfies the class A pathogen standards in 40 C.F.R. 39620
503.32(a); 39621

(ii) Satisfies one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) to (b)(8);	39622 39623
(iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13;	39624 39625
(iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13.	39626 39627
(d) "Treatment" means the preparation of sewage sludge for final use or disposal and includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge.	39628 39629 39630
(e) "Disposal" means the final use of sewage sludge, including, but not limited to, land application, land reclamation, surface disposal, or disposal in a landfill or an incinerator.	39631 39632 39633
(f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil for the purposes of conditioning the soil or fertilizing crops or vegetation grown in the soil.	39634 39635 39636 39637 39638
(g) "Land reclamation" means the returning of disturbed land to productive use.	39639 39640
(h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to, monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites.	39641 39642 39643 39644
(i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device.	39645 39646 39647 39648
(j) "Incineration facility" includes all incinerators owned or operated by the same entity and located on a contiguous tract of land. Areas of land are considered to be contiguous even if	39649 39650 39651

they are separated by a public road or highway. 39652

(k) "Annual sludge fee" means the fee assessed under division 39653
(Y)(1) of this section. 39654

(l) "Landfill" means a sanitary landfill facility, as defined 39655
in rules adopted under section 3734.02 of the Revised Code, that 39656
is licensed under section 3734.05 of the Revised Code. 39657

(m) "Preexisting land reclamation project" means a 39658
property-specific land reclamation project that has been in 39659
continuous operation for not less than five years pursuant to 39660
approval of the activity by the director and includes the 39661
implementation of a community outreach program concerning the 39662
activity. 39663

Sec. 3745.112. During the month of August 1997, and 39664
biennially thereafter, the director of environmental protection 39665
shall enter into a contract for the performance of an independent 39666
evaluation of the Title V permit program to be conducted under the 39667
supervision of an independent certified public accountant. The 39668
evaluation shall review the finances, operations, revenues, costs, 39669
and expenditures of the Title V permit program under section 39670
3704.036 of the Revised Code and the Title V clean air fund 39671
created in section 3704.035 of the Revised Code. The findings of 39672
each such evaluation shall be set forth in a written report that 39673
shall include, without limitation, all of the following: 39674

(A) A review and analysis of all expenditures from the Title 39675
V clean air fund for the Title V permit program; 39676

(B) A review and analysis of all costs incurred by the 39677
environmental protection agency designated by the director to be 39678
costs of the Title V permit program; 39679

(C) A review and analysis of all expenditures from the Title 39680
V clean air fund for costs not designated by the director as costs 39681

of the Title V permit program; 39682

(D) A review and analysis of the adequacy of the fees 39683
assessed under division ~~(C)~~(B) of section 3745.11 for meeting the 39684
costs of the Title V permit program during the period reviewed by 39685
the evaluation. 39686

Upon completion of the written report of each evaluation 39687
required by this section, the director shall provide copies of the 39688
report to the governor and the general assembly and shall make 39689
copies of it available to the public. 39690

The reasonable and necessary expenses for conducting an 39691
evaluation required under this section are hereby deemed to be 39692
reasonable costs to administer the Title V permit program and 39693
shall be paid from moneys credited to the Title V clean air fund 39694
arising from the fees assessed under division ~~(C)~~(B) of section 39695
3745.11 of the Revised Code. 39696

Sec. 3748.04. The ~~public~~ director of health council, in 39697
accordance with Chapter 119. of the Revised Code, shall adopt and 39698
may amend or rescind rules doing all of the following: 39699

(A) Listing types of radioactive material for which licensure 39700
by its handler is required and types of radiation-generating 39701
equipment for which registration by its handler is required, and 39702
establishing requirements governing them. Rules adopted under 39703
division (A) of this section shall be compatible with applicable 39704
federal regulations and shall establish all of the following, 39705
without limitation: 39706

(1) Requirements governing both of the following: 39707

(a) The licensing and inspection of handlers of radioactive 39708
material. Standards established in rules adopted under division 39709
(A)(1)(a) of this section regarding byproduct material or any 39710
activity that results in the production of that material, to the 39711

extent practicable, shall be equivalent to or more stringent than 39712
applicable standards established by the United States nuclear 39713
regulatory commission. 39714

(b) The registration and inspection of handlers of 39715
radiation-generating equipment. Standards established in rules 39716
adopted under division (A)(1)(b) of this section, to the extent 39717
practicable, shall be equivalent to applicable standards 39718
established by the food and drug administration in the United 39719
States department of health and human services. 39720

(2) Identification of and requirements governing possession 39721
and use of specifically licensed and generally licensed quantities 39722
of radioactive material as either sealed sources or unsealed 39723
sources; 39724

(3) A procedure for the issuance of and the frequency of 39725
renewal of the licenses of handlers of radioactive material, other 39726
than a license for a facility for the disposal of low-level 39727
radioactive waste, and of the certificates of registration of 39728
handlers of radiation-generating equipment; 39729

(4) Procedures for suspending and revoking the licenses of 39730
handlers of radioactive material and the certificates of 39731
registration of handlers of radiation-generating equipment; 39732

(5) Criteria to be used by the director of health in amending 39733
the license of a handler of radioactive material or the 39734
certificate of registration of a handler of radiation-generating 39735
equipment subsequent to its issuance; 39736

(6) Criteria for achieving and maintaining compliance with 39737
this chapter and rules adopted under it by licensees and 39738
registrants; 39739

(7) Criteria governing environmental monitoring of licensed 39740
and registered activities to assess compliance with this chapter 39741
and rules adopted under it; 39742

(8) Fees for both of the following:	39743
(a) The licensing of handlers, other than facilities for the disposal of low-level radioactive waste, of radioactive material;	39744 39745
(b) The registration of handlers, other than facilities that are, or are operated by, medical practitioners or medical-practitioner groups, of radiation-generating equipment.	39746 39747 39748
(9) A fee schedule for both of the following that includes fees for reviews, conducted during an inspection, of shielding plans or the adequacy of shielding:	39749 39750 39751
(a) The inspection of handlers of radioactive material;	39752
(b) The inspection of handlers, other than facilities that are, or are operated by, medical practitioners or medical-practitioner groups, of radiation-generating equipment.	39753 39754 39755
(B)(1) Identifying sources of radiation, circumstances of possession, use, or disposal of sources of radiation, and levels of radiation that constitute an unreasonable or unnecessary risk to human health or the environment;	39756 39757 39758 39759
(2) Establishing requirements for the achievement and maintenance of compliance with standards for the receipt, possession, use, storage, installation, transfer, servicing, and disposal of sources of radiation to prevent levels of radiation that constitute an unreasonable or unnecessary risk to human health or the environment;	39760 39761 39762 39763 39764 39765
(3) Requiring the maintenance of records on the receipt, use, storage, transfer, and disposal of radioactive material and on the radiological safety aspects of the use and maintenance of radiation-generating equipment.	39766 39767 39768 39769
In adopting rules under divisions (A) and (B) of this section, the council <u>director</u> shall use standards no less stringent than the "suggested state regulations for control of	39770 39771 39772

radiation" prepared by the conference of radiation control program 39773
directors, inc., and regulations adopted by the United States 39774
nuclear regulatory commission, the United States environmental 39775
protection agency, and the United States department of health and 39776
human services and shall consider reports of the national council 39777
on radiation protection and measurement and the relevant standards 39778
of the American national standards institute. 39779

(C) Establishing fees, procedures, and requirements for 39780
certification as a radiation expert, including all of the 39781
following, without limitation: 39782

(1) Minimum training and experience requirements; 39783

(2) Procedures for applying for certification; 39784

(3) Procedures for review of applications and issuance of 39785
certificates; 39786

(4) Procedures for suspending and revoking certification. 39787

(D) Establishing a schedule for inspection of sources of 39788
radiation and their shielding and surroundings; 39789

(E) Establishing the responsibilities of a radiation expert; 39790

(F) Establishing criteria for quality assurance programs for 39791
licensees of radioactive material and registrants of 39792
radiation-generating equipment; 39793

(G) Establishing fees to be paid by any facility that, on 39794
September 8, 1995, holds a license from the United States nuclear 39795
regulatory commission in order to provide moneys necessary for the 39796
transfer of licensing and other regulatory authority from the 39797
commission to the state pursuant to section 3748.03 of the Revised 39798
Code. Rules adopted under this division shall stipulate that fees 39799
so established do not apply to any functions dealing specifically 39800
with a facility for the disposal of low-level radioactive waste. 39801
Fees collected under this division shall be deposited into the 39802

state treasury to the credit of the general operations fund 39803
created in section 3701.83 of the Revised Code. The fees shall be 39804
used solely to administer and enforce this chapter and rules 39805
adopted under it. 39806

(H) Establishing fees to be collected annually from 39807
generators of low-level radioactive waste, which shall be based 39808
upon the volume and radioactivity of the waste generated and the 39809
costs of administering low-level radioactive waste management 39810
activities under this chapter and rules adopted under it. All fees 39811
collected under this division shall be deposited into the state 39812
treasury to the credit of the general operations fund created in 39813
section 3701.83 of the Revised Code. The fees shall be used solely 39814
to administer and enforce this chapter and rules adopted under it. 39815
Any fee required under this division that ~~has not been paid within~~ 39816
~~ninety days~~ remains unpaid on the ninety-first day after the 39817
original invoice date shall be assessed ~~at two times~~ an additional 39818
amount equal to ten per cent of the original ~~invoiced~~ fee. ~~Any fee~~ 39819
~~that has not been paid within one hundred eighty days after the~~ 39820
~~invoice date shall be assessed at five times the original invoiced~~ 39821
~~fee.~~ 39822

(I) Establishing requirements governing closure, 39823
decontamination, decommissioning, reclamation, and long-term 39824
surveillance and care of a facility licensed under this chapter 39825
and rules adopted under it. Rules adopted under division (I) of 39826
this section shall include, without limitation, all of the 39827
following: 39828

(1) Standards and procedures to ensure that a licensee 39829
prepares a decommissioning funding plan that provides an adequate 39830
financial guaranty to permit the completion of all requirements 39831
governing the closure, decontamination, decommissioning, and 39832
reclamation of sites, structures, and equipment used in 39833
conjunction with a licensed activity; 39834

(2) For licensed activities where radioactive material that 39835
will require surveillance or care is likely to remain at the site 39836
after the licensed activities cease, as indicated in the 39837
application for the license submitted under section 3748.07 of the 39838
Revised Code, standards and procedures to ensure that the licensee 39839
prepares an additional decommissioning funding plan for long-term 39840
surveillance and care, before termination of the license, that 39841
provides an additional adequate financial guaranty as necessary to 39842
provide for that surveillance and care; 39843

(3) For the purposes of the decommissioning funding plans 39844
required in rules adopted under divisions (I)(1) and (2) of this 39845
section, the types of acceptable financial guaranties, which shall 39846
include bonds issued by fidelity or surety companies authorized to 39847
do business in the state, certificates of deposit, deposits of 39848
government securities, irrevocable letters or lines of credit, 39849
trust funds, escrow accounts, or other similar types of 39850
arrangements, but shall not include any arrangement that 39851
constitutes self-insurance; 39852

(4) A requirement that the decommissioning funding plans 39853
required in rules adopted under divisions (I)(1) and (2) of this 39854
section contain financial guaranties in amounts sufficient to 39855
ensure compliance with any standards established by the United 39856
States nuclear regulatory commission, or by the state if it has 39857
become an agreement state pursuant to section 3748.03 of the 39858
Revised Code, pertaining to closure, decontamination, 39859
decommissioning, reclamation, and long-term surveillance and care 39860
of licensed activities and sites of licensees. 39861

Standards established in rules adopted under division (I) of 39862
this section regarding any activity that resulted in the 39863
production of byproduct material, as defined in division (A)(2) of 39864
section 3748.01 of the Revised Code, to the extent practicable, 39865
shall be equivalent to or more stringent than standards 39866

established by the United States nuclear regulatory commission for 39867
sites at which ores were processed primarily for their source 39868
material content and at which byproduct material, as defined in 39869
division (A)(2) of section 3748.01 of the Revised Code, is 39870
deposited. 39871

(J) Establishing criteria governing inspections of a facility 39872
for the disposal of low-level radioactive waste, including, 39873
without limitation, the establishment of a resident inspector 39874
program at such a facility; 39875

(K) Establishing requirements and procedures governing the 39876
filing of complaints under section 3748.16 of the Revised Code, 39877
including, without limitation, those governing intervention in a 39878
hearing held under division (B)(3) of that section. 39879

Sec. 3748.05. (A) The director of health shall do all of the 39880
following: 39881

(1) Administer and enforce this chapter and the rules adopted 39882
under it; 39883

(2) Collect and make available information relating to 39884
sources of radiation; 39885

(3) Ensure the review of plans and specifications, submitted 39886
in accordance with rules adopted by the ~~public health council~~ 39887
director, for the control of radiation that constitutes an 39888
unreasonable or unnecessary risk to human health or the 39889
environment; 39890

(4) Review reports of quality assurance audits performed by 39891
certified radiation experts under this chapter and the rules 39892
adopted under it; 39893

(5) Ensure that programs for the control of sources of 39894
radiation are developed with due regard for compatibility with 39895
federal programs for the regulation of byproduct, source, and 39896

special nuclear materials; 39897

(6) In accordance with Chapter 119. of the Revised Code, 39898
adopt, and subsequently may amend and rescind, rules providing for 39899
the administrative assessment and collection of monetary penalties 39900
for failure by any facility licensed under this chapter and rules 39901
adopted under it to comply with this chapter and those rules. The 39902
director may require the submission of compliance schedules and 39903
other related information. Any orders issued or payments or other 39904
requirements imposed pursuant to rules adopted under division 39905
(A)(6) of this section shall not affect any civil or criminal 39906
enforcement proceeding brought under this chapter or any other 39907
provision of state or local law. Moneys collected as 39908
administrative penalties imposed pursuant to rules adopted under 39909
division (A)(6) of this section shall be deposited in the state 39910
treasury to the credit of the general operations fund created in 39911
section 3701.83 of the Revised Code. The moneys shall be used 39912
solely to administer and enforce this chapter and the rules 39913
adopted under it. 39914

(7) Maintain files of both of the following: 39915

(a) All license and registration applications, issuances, 39916
denials, amendments, renewals, suspensions, and revocations and 39917
any administrative or judicial action pertaining to them; 39918

(b) All rules adopted under this chapter, or proposed to be 39919
adopted, relating to the regulation of sources of radiation and 39920
proceedings on them. 39921

(B) The director may do any or all of the following: 39922

(1) Advise, consult, and cooperate with other agencies of the 39923
state, the federal government, other states, interstate agencies, 39924
political subdivisions, industries, and other affected groups in 39925
furtherance of the purposes of this chapter and the rules adopted 39926
under it; 39927

(2) Accept and administer grants from the federal government 39928
and from other sources, public or private, for carrying out any of 39929
the director's functions under this chapter and the rules adopted 39930
under it; 39931

(3) Encourage, participate in, or conduct studies, 39932
investigations, training, research, and demonstrations relating to 39933
the detection and control of radiation that constitutes an 39934
unreasonable or unnecessary risk to human health or the 39935
environment, the measurement of radiation, the evaluation of 39936
potential effects on health of cumulative or acute exposure to 39937
radiation, the development and improvement of methods to limit and 39938
reduce the generation of radioactive waste, and related problems 39939
as the director considers necessary or advisable; 39940

(4) In accordance with Chapter 119. of the Revised Code, 39941
adopt rules establishing criteria under which other agencies of 39942
the state or private entities may perform inspections of x-ray 39943
equipment at registered dental facilities at the request of the 39944
facility or pursuant to contract with the department; 39945

(5) Exercise all incidental powers necessary to carry out the 39946
purposes of this chapter and the rules adopted under it, 39947
including, without limitation, the issuance of orders. 39948

Sec. 3748.07. (A) Every facility that proposes to handle 39949
radioactive material or radiation-generating equipment for which 39950
licensure or registration, respectively, by its handler is 39951
required shall apply in writing to the director of health on forms 39952
prescribed and provided by the director for licensure or 39953
registration. Terms and conditions of licenses and certificates of 39954
registration may be amended in accordance with rules adopted under 39955
section 3748.04 of the Revised Code or orders issued by the 39956
director pursuant to section 3748.05 of the Revised Code. 39957

(B)(1) An applicant proposing to handle radioactive material 39958

shall pay for a license or renewal of a license the appropriate 39959
fee specified in rules adopted under section 3748.04 of the 39960
Revised Code and listed on an invoice provided by the director. 39961
The applicant shall pay the fee on receipt of the invoice. 39962

(2)(a) Except as provided in division (B)(2)(b) of this 39963
section, until fees are established in rules adopted under 39964
division (A)(8)(b) of section 3748.04 of the Revised Code, an 39965
applicant proposing to handle radiation-generating equipment shall 39966
pay for a certificate of registration or renewal of a certificate 39967
a biennial registration fee of two hundred sixty-two dollars. 39968

Except as provided in division (B)(2)(b) of this section, on 39969
and after the effective date of the rules in which fees are 39970
established under division (A)(8)(b) of section 3748.04 of the 39971
Revised Code, an applicant proposing to handle 39972
radiation-generating equipment shall pay for a certificate of 39973
registration or renewal of a certificate the appropriate fee 39974
established in those rules. 39975

The applicant shall pay the fees described in division 39976
(B)(2)(a) of this section at the time of applying for a 39977
certificate of registration or renewal of a certificate. 39978

(b) An applicant that is, or is operated by, a medical 39979
practitioner or medical-practitioner group and proposes to handle 39980
radiation-generating equipment shall pay for a certificate of 39981
registration or renewal of a certificate a biennial registration 39982
fee of two hundred sixty-two dollars. The applicant shall pay the 39983
fee at the time of applying for a certificate of registration or 39984
renewal of the certificate. 39985

(C) All fees collected under this section shall be deposited 39986
in the state treasury to the credit of the general operations fund 39987
created in section 3701.83 of the Revised Code. The fees shall be 39988
used solely to administer and enforce this chapter and rules 39989

adopted under it. 39990

(D) Any fee required under this section that ~~has not been~~ 39991
~~paid within ninety days~~ remains unpaid on the ninety-first day 39992
after the original invoice date shall be assessed ~~at two times an~~ 39993
additional amount equal to ten per cent of the original invoiced 39994
fee. ~~Any fee that has not been paid within one hundred eighty days~~ 39995
~~after the invoice date shall be assessed at five times the~~ 39996
~~original invoiced fee.~~ 39997

(E) The director shall grant a license or registration to any 39998
applicant who has paid the required fee and is in compliance with 39999
this chapter and rules adopted under it. 40000

(F) Except as provided in division (B)(2) of this section, 40001
licenses and certificates of registration shall be effective for 40002
the applicable period established in rules adopted under section 40003
3748.04 of the Revised Code. Licenses and certificates of 40004
registration shall be renewed in accordance with the renewal 40005
procedure established in rules adopted under section 3748.04 of 40006
the Revised Code. 40007

Sec. 3748.10. (A) As used in this section, "person" means any 40008
legal entity defined as a person under section 1.59 of the Revised 40009
Code, the state or any agency of the state, any political 40010
subdivision or agency of a political subdivision, and the United 40011
States or any agency or instrumentality of the United States other 40012
than the United States department of energy or the United States 40013
nuclear regulatory commission where state regulation of the 40014
treatment, recycling, storage, or disposal of low-level 40015
radioactive waste by either of those agencies is prohibited by 40016
federal law. 40017

(B) No person shall treat, recycle, store, or dispose of any 40018
low-level radioactive waste except at a facility that is licensed 40019
for treatment, recycling, storage, or disposal of that waste by 40020

the director of health under this chapter and rules adopted under 40021
it or, until the state becomes an agreement state pursuant to 40022
section 3748.03 of the Revised Code, by the United States nuclear 40023
regulatory commission under the "Atomic Energy Act of 1954," 68 40024
Stat. 919, 42 U.S.C.A. 2011, as amended, and regulations adopted 40025
under it regardless of whether the waste has been reclassified as 40026
"below regulatory concern" by the United States nuclear regulatory 40027
commission pursuant to any rule or standard adopted after January 40028
1, 1990. 40029

(C) Division (B) of this section does not apply to either of 40030
the following: 40031

(1) Any low-level radioactive waste that on or before January 40032
1, 1990, was authorized under the "Atomic Energy Act of 1954," 68 40033
Stat. 919, 42 U.S.C.A. 2011, as amended, and regulations adopted 40034
under it to be treated, recycled, stored, or disposed of at a 40035
facility that has not been licensed under that act and regulations 40036
adopted under it; 40037

(2) Any low-level radioactive waste that has received an 40038
exemption from the director of health under division (C)(2) of 40039
this section. If the United States nuclear regulatory commission 40040
declares its intent to institute a policy regarding the 40041
reclassification of waste as "below regulatory concern," the 40042
~~public health council~~ director, in consultation with the 40043
environmental protection agency, shall adopt rules in accordance 40044
with Chapter 119. of the Revised Code that govern the granting of 40045
such exemptions and that do at least all of the following: 40046

(a) Establish an application procedure to be followed by the 40047
generator of a low-level radioactive waste who wishes to obtain an 40048
exemption for that waste under division (C)(2) of this section; 40049

(b) Require that in order to receive an exemption, a 40050
low-level radioactive waste shall have been reclassified as "below 40051

regulatory concern" by the United States nuclear regulatory 40052
commission after August 19, 1992. The rules adopted under division 40053
(C)(2)(b) of this section shall stipulate that such a 40054
reclassification does not automatically qualify a low-level 40055
radioactive waste for an exemption under division (C)(2) of this 40056
section. 40057

(c) Require an applicant to demonstrate with clear and 40058
convincing evidence that the low-level radioactive waste that is 40059
the subject of the application does not present a higher 40060
radioactive hazard than any low-level radioactive waste to which 40061
division (C)(1) of this section applies and that treatment, 40062
recycling, storage, or disposal of the waste at a facility that 40063
has not been licensed by the director under this chapter and rules 40064
adopted under it or, until the state becomes an agreement state 40065
pursuant to section 3748.03 of the Revised Code, by the United 40066
States nuclear regulatory commission under the "Atomic Energy Act 40067
of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as amended, and 40068
regulations adopted under it, will not harm public health or 40069
safety or the environment; 40070

(d) Establish public notification procedures to be followed 40071
by the director for any public hearing held ~~by him~~ under division 40072
(C)(2) of this section. 40073

The director shall review an application submitted ~~to him~~ 40074
under division (C)(2) of this section and shall hold a public 40075
hearing concerning the application before granting or denying the 40076
exemption requested. The director may grant an exemption to the 40077
low-level radioactive waste that is the subject of the application 40078
~~if he determines~~ after determining that the generator has complied 40079
with the rules adopted under division (C)(2)(a) of this section 40080
and that the waste satisfies the requirements established in the 40081
rules adopted under divisions (C)(2)(b) and (c) of this section. 40082
The director shall maintain a list of all low-level radioactive 40083

wastes to which ~~he~~ the director has granted such an exemption. 40084

Division (C)(2) of this section does not apply to any 40085

low-level radioactive waste generated at a nuclear power station. 40086

Sec. 3748.12. The director of health shall certify radiation 40087
experts pursuant to rules adopted under division (C) of section 40088
3748.04 of the Revised Code. The director shall issue a 40089
certificate to each person certified under this section. An 40090
individual certified by the director is qualified to develop, 40091
provide periodic review of, and conduct audits of the quality 40092
assurance program for sources of radiation for which such a 40093
program is required under division (A) of section 3748.13 of the 40094
Revised Code. 40095

The ~~public health council~~ director shall establish an 40096
application fee for applying for certification and a biennial 40097
certification renewal fee in rules adopted under division (C) of 40098
section 3748.04 of the Revised Code. A certificate issued under 40099
this section shall expire two years after the date of its 40100
issuance. To maintain certification, a radiation expert shall 40101
apply to the director for renewal of certification in accordance 40102
with the standard renewal procedures established in Chapter 4745. 40103
of the Revised Code. The certification renewal fee is not required 40104
for initial certification, but shall be paid for every renewal of 40105
certification. Fees collected under this section shall be 40106
deposited into the state treasury to the credit of the general 40107
operations fund created in section 3701.83 of the Revised Code. 40108
The fees shall be used solely to administer and enforce this 40109
chapter and rules adopted under it. Any fee required under this 40110
section that ~~has not been paid within ninety days~~ remains unpaid 40111
on the ninety-first day after the original invoice date shall be 40112
assessed ~~at two times~~ an additional amount equal to ten per cent 40113
of the original ~~invoiced~~ fee. ~~Any fee that has not been paid~~ 40114

~~within one hundred eighty days after the invoice date shall be~~ 40115
~~assessed at five times the original invoiced fee.~~ 40116

Sec. 3748.13. (A) The director of health shall inspect 40117
sources of radiation for which licensure or registration by the 40118
handler is required, and the sources' shielding and surroundings, 40119
according to the schedule established in rules adopted under 40120
division (D) of section 3748.04 of the Revised Code. In accordance 40121
with rules adopted under section 3748.04 of the Revised Code, the 40122
director shall inspect all records and operating procedures of 40123
handlers that install or service sources of radiation and all 40124
sources of radiation for which licensure of radioactive material 40125
or registration of radiation-generating equipment by the handler 40126
is required. The director may make other inspections upon 40127
receiving complaints or other evidence of a violation of this 40128
chapter or rules adopted under it. 40129

The director shall require any hospital registered under 40130
division (A) of section 3701.07 of the Revised Code to develop and 40131
maintain a quality assurance program for all sources of 40132
radiation-generating equipment. A certified radiation expert shall 40133
conduct oversight and maintenance of the program and shall file a 40134
report of audits of the program with the director on forms 40135
prescribed by the director. The audit reports shall become part of 40136
the inspection record. 40137

(B)(1) Except as provided in division (B)(2) of this section, 40138
a facility shall pay inspection fees for radioactive material and 40139
radiation-generating equipment according to the schedule and 40140
categories established in rules adopted under division (A)(9) of 40141
section 3748.04 of the Revised Code. 40142

(2) A facility that is, or is operated by, a medical 40143
practitioner or medical-practitioner group shall pay inspection 40144
fees for radiation-generating equipment according to the following 40145

schedule and categories:		40146
First dental x-ray tube	\$ 155.00	40147
Each additional dental x-ray tube at the same location	\$ 77.00	40148
First medical x-ray tube	\$ 307.00	40149
Each additional medical x-ray tube at the same location	\$ 163.00	40150
Each unit of ionizing radiation-generating equipment capable of operating at or above 250 kilovoltage peak	\$ 610.00	40151
First nonionizing radiation-generating equipment of any kind	\$ 307.00	40152
Each additional nonionizing radiation-generating equipment of any kind at the same location	\$ 163.00	40153
(C)(1) Except as provided in division (C)(2) of this section, the fee for the inspection of a facility that proposes to handle radioactive material or radiation-generating equipment and is not licensed or registered, and for which no license or registration application is pending at the time of inspection, is four hundred seventy-four dollars plus the applicable fee specified in rules adopted under division (A)(9) of section 3748.04 of the Revised Code.		40154 40155 40156 40157 40158 40159 40160 40161
(2) For a facility that is, or is operated by, a medical practitioner or medical-practitioner group and proposes to handle radiation-generating equipment, the fee for an inspection if the facility is not licensed or registered, and no license or registration is pending at the time of inspection, is four hundred seventy-four dollars plus the fee applicable under the schedule in division (B)(2) of this section.		40162 40163 40164 40165 40166 40167 40168

(D)(1) Except as provided in division (D)(2) of this section, 40169
for a facility that handles radioactive material or 40170
radiation-generating equipment, the fee for an inspection to 40171
determine whether violations cited in a previous inspection have 40172
been corrected is the amount specified in rules adopted under 40173
division (A)(9) of section 3748.04 of the Revised Code. 40174

(2) For a facility that is, or is operated by, a medical 40175
practitioner or medical-practitioner group and handles 40176
radiation-generating equipment, the fee for an inspection to 40177
determine whether violations cited in a previous inspection have 40178
been corrected is fifty per cent of the applicable fee under the 40179
schedule in division (B)(2) of this section. 40180

(E) The director may conduct a review of shielding plans or 40181
the adequacy of shielding on the request of a licensee or 40182
registrant or an applicant for licensure or registration or during 40183
an inspection when the director considers a review to be 40184
necessary. 40185

(1) Except as provided in division (E)(2) of this section, 40186
the fee for the review is the applicable amount specified in rules 40187
adopted under division (A)(9) of section 3748.04 of the Revised 40188
Code. 40189

(2) For a facility that is, or is operated by, a medical 40190
practitioner or medical-practitioner group and handles or proposes 40191
to handle radiation-generating equipment, the fee for the review 40192
is seven hundred sixty-two dollars for each room where a source of 40193
radiation is used and is in addition to any other fee applicable 40194
under the schedule in division (B)(2) of this section. 40195

(F) All fees shall be paid to the department of health no 40196
later than thirty days after the invoice for the fee is mailed. 40197
Fees shall be deposited in the general operations fund created in 40198
section 3701.83 of the Revised Code. The fees shall be used solely 40199

to administer and enforce this chapter and rules adopted under it. 40200

(G) Any fee required under this section that ~~has not been~~ 40201
~~paid within ninety days~~ remains unpaid on the ninety-first day 40202
after the original invoice date shall be assessed ~~at two times an~~ 40203
additional amount equal to ten per cent of the original invoiced 40204
fee. ~~Any fee that has not been paid within one hundred eighty days~~ 40205
~~after the invoice date shall be assessed at five times the~~ 40206
~~original invoiced fee.~~ 40207

(H) If the director determines that a board of health of a 40208
city or general health district is qualified to conduct 40209
inspections of radiation-generating equipment, the director may 40210
delegate to the board, by contract, the authority to conduct such 40211
inspections. In making a determination of the qualifications of a 40212
board of health to conduct those inspections, the director shall 40213
evaluate the credentials of the individuals who are to conduct the 40214
inspections of radiation-generating equipment and the radiation 40215
detection and measuring equipment available to them for that 40216
purpose. If a contract is entered into, the board shall have the 40217
same authority to make inspections of radiation-generating 40218
equipment as the director has under this chapter and rules adopted 40219
under it. The contract shall stipulate that only individuals 40220
approved by the director as qualified shall be permitted to 40221
inspect radiation-generating equipment under the contract's 40222
provisions. The contract shall provide for such compensation for 40223
services as is agreed to by the director and the board of health 40224
of the contracting health district. The director may reevaluate 40225
the credentials of the inspection personnel and their radiation 40226
detecting and measuring equipment as often as the director 40227
considers necessary and may terminate any contract with the board 40228
of health of any health district that, in the director's opinion, 40229
is not satisfactorily performing the terms of the contract. 40230

(I) The director may enter at all reasonable times upon any 40231

public or private property to determine compliance with this 40232
chapter and rules adopted under it. 40233

Sec. 3748.15. No facility shall violate or fail to comply 40234
with any duty imposed by this chapter, fail to pay any 40235
administrative penalty assessed in accordance with rules adopted 40236
under division (A)(6) of section 3748.05 of the Revised Code, or 40237
violate or fail to comply with any valid order ~~of~~ issued or rule 40238
adopted by the director of health ~~issued or rule of the public~~ 40239
~~health council adopted~~ under this chapter. Each day a violation 40240
continues is a separate offense. 40241

Sec. 3748.20. (A) The governor, with the advice and consent 40242
of the senate, shall appoint a radiation advisory council, which 40243
shall consist of the following members: 40244

(1) One individual who has recognized ability and credentials 40245
in the field of medical radiation physics; 40246

(2) One individual who has recognized ability and credentials 40247
in the field of health physics; 40248

(3) One individual holding the degree of doctor of medicine 40249
or doctor of osteopathy and licensed to practice medicine or 40250
surgery or osteopathic medicine and surgery, as applicable, under 40251
Chapter 4731. of the Revised Code who has recognized ability and 40252
credentials in the practice of radiology; 40253

(4) One individual who is licensed to practice dentistry 40254
under Chapter 4715. of the Revised Code; 40255

(5) One individual holding the degree of doctor of medicine 40256
and licensed to practice medicine or surgery under Chapter 4731. 40257
of the Revised Code who has recognized ability and credentials in 40258
the field of nuclear medicine; 40259

(6) One individual who has recognized ability and credentials 40260

in the field of public health or environmental science; 40261

(7) One individual licensed as a podiatrist under Chapter 40262
4731. of the Revised Code; 40263

(8) One individual licensed as a chiropractor under Chapter 40264
4734. of the Revised Code; 40265

(9) One individual who is a qualified radiation safety 40266
officer or radiation protection manager from a facility in this 40267
state that is licensed for the use of radiation materials; 40268

(10) One individual who has recognized ability and 40269
credentials in the field of radon measurement, mitigation, or 40270
health risk management; 40271

(11) One individual who is a member of a statewide consumer 40272
or environmental advocacy organization; 40273

(12) One individual representing the public; 40274

(13) One individual who has recognized ability and experience 40275
in the administration and enforcement of federal radiation 40276
protection regulations, who shall be a nonvoting member. 40277

The governor shall make the initial appointments to the 40278
council not later than December 7, 1995. Of the initial 40279
appointments, four shall be for a term of office of three years, 40280
four shall be for a term of office of four years, and four shall 40281
be for a term of office of five years. Thereafter, terms of office 40282
for the members of the council shall be five years with each term 40283
ending on the same day of the same month as did the term that it 40284
succeeds. Each member shall hold office from the date of the 40285
member's appointment until the end of the term for which the 40286
member was appointed. Members may be reappointed. Vacancies shall 40287
be filled in the manner provided for original appointment. Any 40288
member appointed to fill a vacancy occurring prior to the 40289
expiration of the term for which the member's predecessor was 40290

appointed shall hold office for the remainder of that term. A 40291
member shall continue in office subsequent to the expiration of 40292
the member's term or until a period of sixty days has elapsed, 40293
whichever occurs first. 40294

The council shall hold four regular quarterly meetings each 40295
year. Special meetings may be held at the request of the 40296
chairperson of the council or the director of health. The 40297
chairperson shall be selected annually by members of the council 40298
during the first meeting of the calendar year. Following each 40299
meeting, the chairperson shall submit a report to the director 40300
summarizing the activities, discussion, and recommendations of the 40301
council. Seven voting members of the council constitute a quorum. 40302

Members of the radiation advisory council shall receive a per 40303
diem compensation in an amount approved by the director and also 40304
shall be reimbursed for actual expenses incurred in the 40305
performance of their official duties. 40306

The department of health shall provide the council the 40307
administrative support necessary to execute its duties. 40308

(B) The radiation advisory council shall do all of the 40309
following: 40310

(1) Advise and consult with the ~~public health council~~ 40311
director in the development of rules ~~proposed for adoption to be~~ 40312
adopted under section 3748.04 of the Revised Code; 40313

(2) Advise and consult with the director concerning the 40314
administration, implementation, and enforcement of this chapter, 40315
including the implementation of the specific responsibilities 40316
delineated in section 3748.05 of the Revised Code; 40317

(3) Advise and consult with the director in the development 40318
of inspection criteria, procedures, and guidelines to be used in 40319
the radiation control program established under this chapter and 40320
rules adopted under it; 40321

(4) Prepare and submit to the director an annual report 40322
evaluating the department's administration of the radiation 40323
control program. 40324

(C) The council shall establish committees to focus on 40325
specific components of the radiation control program established 40326
under this chapter and rules adopted under it. Chairpersons of the 40327
committees shall be appointed by the chairperson of the council 40328
and shall be members of the council. Other members of the 40329
committees shall be appointed by the chairperson of the council 40330
and may include individuals who are not members of the council. 40331

The membership and responsibilities of each committee 40332
established under this division shall be subject to the approval 40333
of the director. Members of the committees shall be reimbursed for 40334
actual expenses incurred in the performance of their official 40335
duties. 40336

Committee reports shall be presented to the council at each 40337
regular meeting of the council. 40338

Sec. 3749.02. The ~~public~~ director of health council shall, 40339
subject to Chapter 119. of the Revised Code, adopt rules of 40340
general application throughout the state governing the issuance of 40341
licenses, approval of plans, layout, construction, sanitation, 40342
safety, and operation of public swimming pools, public spas, and 40343
special use pools. Such rules shall not be applied to the 40344
construction, erection, or manufacture of any building to which 40345
section 3781.06 of the Revised Code is applicable when the 40346
building or structure is either integral to or appurtenant to a 40347
public swimming pool, a public spa, or a special use pool. 40348

Sec. 3749.03. (A) No person shall construct or install, or 40349
renovate or otherwise substantially alter, a public swimming pool, 40350
public spa, or ~~special-use~~ special use pool after September 10, 40351

1987, until the plans for the pool or spa have been submitted to 40352
and approved by the director of health. Within thirty days of 40353
receipt of the plans, the director shall approve or disapprove 40354
them. The plans and approval required under this division do not 40355
apply to repairs or ordinary maintenance that does not 40356
substantially affect the manner of water recirculation or basic 40357
design of the public swimming pool, public spa, or ~~special-use~~ 40358
special use pool. 40359

Any person aggrieved by the director's disapproval of plans 40360
under this division may, within thirty days following receipt of 40361
the director's notice of disapproval, request a hearing on the 40362
matter. The hearing shall be held in accordance with Chapter 119. 40363
of the Revised Code and may be appealed in the manner provided in 40364
that chapter. 40365

(B) Prior to the issuance of a license to operate a newly 40366
constructed or altered public swimming pool, public spa, or 40367
~~special-use~~ special use pool, the director or a licensor 40368
authorized by the director shall verify that the construction or 40369
alterations are consistent with the plans submitted and approved 40370
under division (A) of this section. The director or licensor 40371
authorized by the director shall have two working days from the 40372
time notification is received that a public swimming pool, public 40373
spa, or ~~special-use~~ special use pool is ready for an inspection to 40374
verify the construction or alterations. 40375

(C) The (1) Except as provided in division (C)(2) of this 40376
section, the fees for the approval of plans are as follows: 40377

~~(1)~~(a) Five per cent of the total cost of the equipment and 40378
installation not to exceed two hundred seventy-five dollars for a 40379
public swimming pool, public spa, or ~~special-use~~ special use pool, 40380
or a combination thereof, that has less than two thousand square 40381
feet of surface area; 40382

~~(2)(b)~~ Five per cent of the total cost of the equipment and 40383
installation not to exceed five hundred fifty dollars for a public 40384
swimming pool, public spa, ~~special-use~~ special use pool, or a 40385
combination thereof, that has two thousand or more square feet of 40386
surface area. 40387

~~After December 31, 1992, the public health council~~ (2) The 40388
director may, by rule adopted in accordance with Chapter 119. of 40389
the Revised Code, increase the fees established by this section. 40390

(D) All plan approval fees shall be paid into the state 40391
treasury to the credit of the general operations fund created by 40392
section 3701.83 of the Revised Code. The fees shall be 40393
administered by the director and shall be used solely for the 40394
administration and enforcement of this chapter and the rules 40395
adopted thereunder. 40396

(E) Plan approvals issued under this section shall not 40397
constitute an exemption from the land use and building 40398
requirements of the political subdivision in which the public 40399
swimming pool, public spa, or ~~special-use~~ special use pool is or 40400
is to be located. 40401

Sec. 3749.04. (A) No person shall operate or maintain a 40402
public swimming pool, public spa, or ~~special-use~~ special use pool 40403
without a license issued by the licensor having jurisdiction. 40404

(B) Every person who intends to operate or maintain an 40405
existing public swimming pool, public spa, or ~~special-use~~ special 40406
use pool shall, during the month of April of each year, apply to 40407
the licensor having jurisdiction for a license to operate the pool 40408
or spa. Any person proposing to operate or maintain a new or 40409
otherwise unlicensed public swimming pool, public spa, or 40410
~~special-use~~ special use pool shall apply to the licensor having 40411
jurisdiction at least thirty days prior to the intended start of 40412
operation of the pool or spa. Within thirty days of receipt of an 40413

application for licensure of a public swimming pool, public spa, 40414
or ~~special-use~~ special use pool, the licenser shall process the 40415
application and either issue a license or otherwise respond to the 40416
applicant regarding the application. 40417

(C) Each license issued shall be effective from the date of 40418
issuance until the last day of May of the following year. 40419

(D) Each licenser administering and enforcing sections 40420
3749.01 to 3749.09 of the Revised Code and the rules adopted 40421
thereunder may establish licensing and inspection fees in 40422
accordance with section 3709.09 of the Revised Code, which shall 40423
not exceed the cost of licensing and inspecting public swimming 40424
pools, public spas, and ~~special-use~~ special use pools. 40425

(E) Except as provided in division (F) of this section and in 40426
division (B) of section 3749.07 of the Revised Code, all license 40427
fees collected by a licenser shall be deposited into a swimming 40428
pool fund, which is hereby created in each health district. The 40429
fees shall be used by the licenser solely for the purpose of 40430
administering and enforcing this chapter and the rules adopted 40431
under this chapter. 40432

(F) An annual license fee established under division (D) of 40433
this section shall include any additional amount determined by 40434
rule of the ~~public~~ director of health council, which the board of 40435
health shall collect and transmit to the director ~~of health~~ 40436
pursuant to section 3709.092 of the Revised Code. The amounts 40437
collected under this division shall be administered by the 40438
director of health and shall be used solely for the administration 40439
and enforcement of this chapter and the rules adopted under this 40440
chapter. 40441

Sec. 3752.06. (A) Unless the owner or operator of a reporting 40442
facility has submitted to the director of environmental protection 40443
in connection with the facility a notice of the temporary 40444

discontinuation of all regulated operations at the facility in 40445
compliance with division (A)(1) of section 3752.09 of the Revised 40446
Code, has submitted an application for a waiver in compliance with 40447
or been issued a waiver under division (A) of section 3752.10 of 40448
the Revised Code, or, pursuant to division (B) of this section, 40449
has been granted an extension of time for compliance with 40450
divisions (A)(4) to (6) of this section, and except as provided in 40451
division (C) of this section, the owner or operator, not later 40452
than ninety days after the cessation of all regulated operations 40453
at the facility, shall do all of the following: 40454

(1) Submit to the director a copy of the most recent 40455
emergency and hazardous chemical inventory form for the facility 40456
submitted to the emergency response commission in accordance with 40457
section 3750.08 of the Revised Code accompanied by a statement 40458
indicating whether any asbestos-containing materials are present 40459
at the facility; 40460
40461

(2) Submit to the director a copy of the current hazardous 40462
chemical list, or of each of the material safety data sheets, that 40463
the owner or operator is required to have on file with the 40464
commission under section 3750.07 of the Revised Code in connection 40465
with the facility; 40466

(3) Submit to the director a list of every stationary tank, 40467
vat, electrical transformer, and vessel of any type that contains 40468
or is contaminated with regulated substances and that is to remain 40469
at the facility; a precise description of the location of each; 40470
and an identification of the regulated substances that are in or 40471
contaminate each; 40472

(4) Drain or remove all regulated substances from each 40473
stationary vat, tank, electrical transformer, and vessel, and from 40474
all piping, that is to remain at the facility and do any or a 40475
combination of the following: 40476

(a) Transfer the regulated substances to another facility 40477
owned or operated by the owner or operator. If any regulated 40478
substances are transferred to another facility of the owner or 40479
operator located within this state, they shall be transferred to a 40480
facility that is operating. If any regulated substances are 40481
transferred to another facility of the owner or operator located 40482
outside this state, they shall be transferred in compliance with 40483
the applicable laws governing the receiving facility of the state 40484
in which the receiving facility is located. 40485

(b) Lawfully transfer ownership of the regulated substances 40486
to another person through sale or otherwise; 40487

(c) Cause the regulated substances to be transported off the 40488
premises of the facility and managed in compliance with the 40489
applicable provisions of Chapter 3734. of the Revised Code and 40490
rules adopted under that chapter; the "Toxic Substances Control 40491
Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended, and 40492
regulations adopted under it; or the "Resource Conservation and 40493
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 40494
amended, and regulations adopted under it; or, if transported out 40495
of state, to be managed in compliance with the waste management 40496
laws of the state to which the regulated substances are 40497
transported. 40498

In the case of any regulated substance that also is a 40499
hazardous material identified or listed in regulations adopted 40500
under the "Hazardous Materials Transportation Act," 88 Stat. 2156 40501
(1975), 49 U.S.C.A. 1801, as amended, and that is to be 40502
transported off the premises of the facility, the owner or 40503
operator of the facility shall transport the regulated substance, 40504
or cause it to be transported, in compliance with the applicable 40505
rules adopted under ~~division (A) of section 4919.85, division (E)~~ 40506
~~of section 4921.04, division (C) of section 4923.03, or division~~ 40507
~~(C) of section 4923.20 Chapters 4905., 4921., and 4923.~~ of the 40508

Revised Code. 40509

(5) Remove from the facility all debris, nonstationary 40510
equipment and furnishings, nonstationary containers, and motor 40511
vehicles and rolling stock that contain or are contaminated with a 40512
regulated substance and do any or a combination of the following: 40513

(a) Transfer the debris, equipment, furnishings, containers, 40514
and motor vehicles and rolling stock to another facility owned or 40515
operated by the owner or operator. If any such debris, equipment, 40516
furnishings, containers, or motor vehicles and rolling stock is 40517
transferred to another facility of the owner or operator located 40518
in this state, it shall be transferred to a facility that is 40519
operating. If any such debris, equipment, furnishings, containers, 40520
or motor vehicles and rolling stock is transferred to another 40521
facility of the owner or operator located outside this state, it 40522
only shall be transferred in compliance with the applicable laws 40523
governing the receiving facility of the state in which the 40524
receiving facility is located. 40525

(b) Lawfully transfer ownership of the debris, equipment, 40526
furnishings, containers, and motor vehicles and rolling stock to 40527
another person through sale or otherwise; 40528

(c) Cause the debris, equipment, furnishings, and containers 40529
to be transported off the premises of the facility and managed in 40530
compliance with the applicable provisions of Chapter 3734. of the 40531
Revised Code and rules adopted under that chapter; the "Toxic 40532
Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, 40533
as amended, and regulations adopted under it; or the "Resource 40534
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 40535
6921, as amended, and regulations adopted under it; or, if 40536
transported out of state, to be managed in compliance with the 40537
waste management laws of the state to which the debris, equipment, 40538
furnishings, and containers are transported. 40539

(6) Make a written certification to the director that the actions required by divisions (A)(4) and (5) of this section have been completed in compliance with those divisions and any applicable rules adopted under section 3752.03 of the Revised Code. The certification shall be made on a form prescribed by the director and, in addition to the information required in division (A) of this section, shall include, without limitation, the owner's or operator's name and the address of the owner's or operator's principal office.

(B) Upon the written request of the owner or operator of a facility who is subject to division (A) of this section, the director, at ~~his~~ the director's discretion, may extend the length of time required for compliance with divisions (A)(4) to (6) of this section for any period of time the director considers reasonable and necessary if the director finds from the request that either of the following applies:

(1) The inability of the owner or operator to complete the required actions within the time prescribed in that division is due to circumstances that are temporary in nature and are beyond the control of the owner or operator;

(2) The owner or operator, exercising reasonable diligence, is unable to complete the required actions within the time prescribed in that division due to facility size, operational complexity, or other such relevant factors.

Upon making a decision on a request submitted under division (B) of this section, the director shall mail notice of ~~his~~ the decision to the owner or operator by certified mail, return receipt requested, and, if the request was approved, notice of the length of the extension.

(C) An owner or operator of a reporting facility who is subject to this section is not required to perform the removal

actions required by it or to make the certification required by 40571
division (A)(6) of this section with respect to hazardous waste 40572
stored, treated, or disposed of at the facility, or portion of the 40573
facility, for which the owner holds a valid hazardous waste 40574
facility installation and operation permit or renewal permit 40575
issued under section 3734.05 of the Revised Code or has obtained a 40576
generator identification number pursuant to rules adopted under 40577
section 3734.12 of the Revised Code. Instead, the owner shall 40578
comply with the applicable closure and post-closure care 40579
requirements established in rules adopted under section 3734.12 of 40580
the Revised Code. 40581

(D) No person shall fail to comply with any provision of 40582
division (A) of this section within the time required by that 40583
division and any extension of that time granted under division (B) 40584
of this section, as appropriate. 40585

Sec. 3770.06. (A) There is hereby created the state lottery 40586
gross revenue fund, which shall be in the custody of the treasurer 40587
of state but shall not be part of the state treasury. All gross 40588
revenues received from sales of lottery tickets, fines, fees, and 40589
related proceeds in connection with the statewide lottery and all 40590
gross proceeds from statewide joint lottery games shall be 40591
deposited into the fund. The treasurer of state shall invest any 40592
portion of the fund not needed for immediate use in the same 40593
manner as, and subject to all provisions of law with respect to 40594
the investment of, state funds. The treasurer of state shall 40595
disburse money from the fund on order of the director of the state 40596
lottery commission or the director's designee. 40597

Except for gross proceeds from statewide joint lottery games, 40598
all revenues of the state lottery gross revenue fund that are not 40599
paid to holders of winning lottery tickets, that are not required 40600
to meet short-term prize liabilities, that are not credited to 40601

lottery sales agents in the form of bonuses, commissions, or 40602
reimbursements, that are not paid to financial institutions to 40603
reimburse those institutions for sales agent nonsufficient funds, 40604
and that are collected from sales agents for remittance to 40605
insurers under contract to provide sales agent bonding services 40606
shall be transferred to the state lottery fund, which is hereby 40607
created in the state treasury. In addition, all revenues of the 40608
state lottery gross revenue fund that represent the gross proceeds 40609
from the statewide joint lottery games and that are not paid to 40610
holders of winning lottery tickets, that are not required to meet 40611
short-term prize liabilities, that are not credited to lottery 40612
sales agents in the form of bonuses, commissions, or 40613
reimbursements, and that are not necessary to cover operating 40614
expenses associated with those games or to otherwise comply with 40615
the agreements signed by the governor that the director enters 40616
into under division (J) of section 3770.02 of the Revised Code or 40617
the rules the commission adopts under division (B)(5) of section 40618
3770.03 of the Revised Code shall be transferred to the state 40619
lottery fund. All investment earnings of the fund shall be 40620
credited to the fund. Moneys shall be disbursed from the fund 40621
pursuant to vouchers approved by the director. Total disbursements 40622
for monetary prize awards to holders of winning lottery tickets in 40623
connection with the statewide lottery and purchases of goods and 40624
services awarded as prizes to holders of winning lottery tickets 40625
shall be of an amount equal to at least fifty per cent of the 40626
total revenue accruing from the sale of lottery tickets. 40627

(B) Pursuant to Section 6 of Article XV, Ohio Constitution, 40628
there is hereby established in the state treasury the lottery 40629
profits education fund. Whenever, in the judgment of the director 40630
of ~~budget and management~~ the state lottery commission, the amount 40631
to the credit of the state lottery fund that does not represent 40632
proceeds from statewide joint lottery games is in excess of that 40633
needed to meet the maturing obligations of the commission and as 40634

working capital for its further operations, the director of the 40635
state lottery commission shall recommend the amount of the excess 40636
to be transferred to the lottery profits education fund, and the 40637
director of budget and management may transfer the excess to the 40638
lottery profits education fund in connection with the statewide 40639
lottery. In addition, whenever, in the judgment of the director of 40640
~~budget and management~~ the state lottery commission, the amount to 40641
the credit of the state lottery fund that represents proceeds from 40642
statewide joint lottery games equals the entire net proceeds of 40643
those games as described in division (B)(5) of section 3770.03 of 40644
the Revised Code and the rules adopted under that division, the 40645
director of the state lottery commission shall recommend the 40646
amount of the proceeds to be transferred to the lottery profits 40647
education fund, and the director of budget and management may 40648
transfer those proceeds to the lottery profits education fund. 40649
~~There shall also be credited to the fund any repayments of moneys~~ 40650
~~loaned from the educational excellence investment fund.~~ Investment 40651
earnings of the lottery profits education fund shall be credited 40652
to the fund. 40653

The lottery profits education fund shall be used solely for 40654
the support of elementary, secondary, vocational, and special 40655
education programs as determined in appropriations made by the 40656
general assembly, or as provided in applicable bond proceedings 40657
for the payment of debt service on obligations issued to pay costs 40658
of capital facilities, including those for a system of common 40659
schools throughout the state pursuant to section 2n of Article 40660
VIII, Ohio Constitution. When determining the availability of 40661
money in the lottery profits education fund, the director of 40662
budget and management may consider all balances and estimated 40663
revenues of the fund. 40664

(C) There is hereby established in the state treasury the 40665
deferred prizes trust fund. With the approval of the director of 40666

budget and management, an amount sufficient to fund annuity prizes 40667
shall be transferred from the state lottery fund and credited to 40668
the trust fund. The treasurer of state shall credit all earnings 40669
arising from investments purchased under this division to the 40670
trust fund. Within sixty days after the end of each fiscal year, 40671
the treasurer of state shall certify to the director of budget and 40672
management whether the actuarial amount of the trust fund is 40673
sufficient over the fund's life for continued funding of all 40674
remaining deferred prize liabilities as of the last day of the 40675
fiscal year just ended. Also, within that sixty days, the director 40676
of budget and management shall certify the amount of investment 40677
earnings necessary to have been credited to the trust fund during 40678
the fiscal year just ending to provide for such continued funding 40679
of deferred prizes. Any earnings credited in excess of the latter 40680
certified amount shall be transferred to the lottery profits 40681
education fund. 40682

To provide all or a part of the amounts necessary to fund 40683
deferred prizes awarded by the commission in connection with the 40684
statewide lottery, the treasurer of state, in consultation with 40685
the commission, may invest moneys contained in the deferred prizes 40686
trust fund which represents proceeds from the statewide lottery in 40687
obligations of the type permitted for the investment of state 40688
funds but whose maturities are thirty years or less. 40689
Notwithstanding the requirements of any other section of the 40690
Revised Code, to provide all or part of the amounts necessary to 40691
fund deferred prizes awarded by the commission in connection with 40692
statewide joint lottery games, the treasurer of state, in 40693
consultation with the commission, may invest moneys in the trust 40694
fund which represent proceeds derived from the statewide joint 40695
lottery games in accordance with the rules the commission adopts 40696
under division (B)(5) of section 3770.03 of the Revised Code. 40697
Investments of the trust fund are not subject to the provisions of 40698
division (A)(10) of section 135.143 of the Revised Code limiting 40699

to twenty-five per cent the amount of the state's total average 40700
portfolio that may be invested in debt interests and limiting to 40701
one-half of one per cent the amount that may be invested in debt 40702
interests of a single issuer. 40703

All purchases made under this division shall be effected on a 40704
delivery versus payment method and shall be in the custody of the 40705
treasurer of state. 40706

The treasurer of state may retain an investment advisor, if 40707
necessary. The commission shall pay any costs incurred by the 40708
treasurer of state in retaining an investment advisor. 40709

(D) The auditor of state shall conduct annual audits of all 40710
funds and any other audits as the auditor of state or the general 40711
assembly considers necessary. The auditor of state may examine all 40712
records, files, and other documents of the commission, and records 40713
of lottery sales agents that pertain to their activities as 40714
agents, for purposes of conducting authorized audits. 40715

The state lottery commission shall establish an internal 40716
audit program before the beginning of each fiscal year, subject to 40717
the approval of the auditor of state. At the end of each fiscal 40718
year, the commission shall prepare and submit an annual report to 40719
the auditor of state for the auditor of state's review and 40720
approval, specifying the internal audit work completed by the end 40721
of that fiscal year and reporting on compliance with the annual 40722
internal audit program. The form and content of the report shall 40723
be prescribed by the auditor of state under division (C) of 40724
section 117.20 of the Revised Code. 40725

(E) Whenever, in the judgment of the director of budget and 40726
management, an amount of net state lottery proceeds is necessary 40727
to be applied to the payment of debt service on obligations, all 40728
as defined in sections 151.01 and 151.03 of the Revised Code, the 40729
director shall transfer that amount directly from the state 40730

lottery fund or from the lottery profits education fund to the 40731
bond service fund defined in those sections. The provisions of 40732
this division are subject to any prior pledges or obligation of 40733
those amounts to the payment of bond service charges as defined in 40734
division (C) of section 3318.21 of the Revised Code, as referred 40735
to in division (B) of this section. 40736

Sec. 3781.03. (A) The state fire marshal, the fire chief of a 40737
municipal corporation that has a fire department, or the fire 40738
chief of a township that has a fire department shall enforce the 40739
provisions of this chapter and Chapter 3791. of the Revised Code 40740
that relate to fire prevention. 40741

(B) The superintendent of ~~labor~~ industrial compliance, or the 40742
building inspector or commissioner of buildings in a municipal 40743
corporation, county, or township in which the building department 40744
is certified by the board of building standards under section 40745
3781.10 of the Revised Code shall enforce in the jurisdiction of 40746
each entity all the provisions in this chapter and Chapter 3791. 40747
of the Revised Code and any rules adopted pursuant to those 40748
chapters that relate to the construction, arrangement, and 40749
erection of all buildings or parts of buildings, as defined in 40750
section 3781.06 of the Revised Code, including the sanitary 40751
condition of those buildings in relation to heating and 40752
ventilation. 40753

(C) The division of ~~labor~~ industrial compliance in the 40754
department of commerce, boards of health of health districts, 40755
certified departments of building inspection of municipal 40756
corporations, and county building departments that have authority 40757
to perform inspections pursuant to a contract under division 40758
(C)(1) of section 3703.01 of the Revised Code, subject to Chapter 40759
3703. of the Revised Code, shall enforce this chapter and Chapter 40760
3791. of the Revised Code and the rules adopted pursuant to those 40761

chapters that relate to plumbing. Building drains are considered 40762
plumbing for the purposes of enforcement of those chapters. 40763

(D)(1) In accordance with Chapter 3703. of the Revised Code, 40764
the department of the city engineer, in cities having such 40765
departments, the boards of health of health districts, or the 40766
sewer purveyor, as appropriate, shall have complete authority to 40767
supervise and regulate the entire sewerage and drainage system in 40768
the jurisdiction in which it is exercising the authority described 40769
in this division, including the building sewer and all laterals 40770
draining into the street sewers. 40771

(2) In accordance with Chapter 3703. of the Revised Code, the 40772
department of the city engineer, the boards of health of health 40773
districts, or the sewer purveyor, as appropriate, shall control 40774
and supervise the installation and construction of all drains and 40775
sewers that become a part of the sewerage system and shall issue 40776
all the necessary permits and licenses for the construction and 40777
installation of all building sewers and of all other lateral 40778
drains that empty into the main sewers. The department of the city 40779
engineer, the boards of health of health districts, and the sewer 40780
purveyor, as appropriate, shall keep a permanent record of the 40781
installation and location of every drain and sewer of the drainage 40782
and sewerage system of the jurisdiction in which it has exercised 40783
the authority described in this division. 40784

(E) This section does not exempt any officer or department 40785
from the obligation to enforce this chapter and Chapter 3791. of 40786
the Revised Code. 40787

Sec. 3781.06. (A)(1) Any building that may be used as a place 40788
of resort, assembly, education, entertainment, lodging, dwelling, 40789
trade, manufacture, repair, storage, traffic, or occupancy by the 40790
public, any residential building, and all other buildings or parts 40791
and appurtenances of those buildings erected within this state, 40792

shall be so constructed, erected, equipped, and maintained that 40793
they shall be safe and sanitary for their intended use and 40794
occupancy. 40795

(2) Nothing in sections 3781.06 to 3781.18 and 3791.04 of the 40796
Revised Code shall be construed to limit the power of the ~~public~~ 40797
~~health council~~ manufactured homes commission to adopt rules of 40798
uniform application governing manufactured home parks pursuant to 40799
section ~~3733.02~~ 4781.26 of the Revised Code. 40800

(B) Sections 3781.06 to 3781.18 and 3791.04 of the Revised 40801
Code do not apply to either of the following: 40802

(1) Buildings or structures that are incident to the use for 40803
agricultural purposes of the land on which the buildings or 40804
structures are located, provided those buildings or structures are 40805
not used in the business of retail trade. For purposes of this 40806
division, a building or structure is not considered used in the 40807
business of retail trade if fifty per cent or more of the gross 40808
income received from sales of products in the building or 40809
structure by the owner or operator is from sales of products 40810
produced or raised in a normal crop year on farms owned or 40811
operated by the seller. 40812

(2) Existing single-family, two-family, and three-family 40813
detached dwelling houses for which applications have been 40814
submitted to the director of job and family services pursuant to 40815
section 5104.03 of the Revised Code for the purposes of operating 40816
type A family day-care homes as defined in section 5104.01 of the 40817
Revised Code. 40818

(C) As used in sections 3781.06 to 3781.18 and 3791.04 of the 40819
Revised Code: 40820

(1) "Agricultural purposes" include agriculture, farming, 40821
dairying, pasturage, apiculture, horticulture, floriculture, 40822
viticulture, ornamental horticulture, olericulture, pomiculture, 40823

and animal and poultry husbandry. 40824

(2) "Building" means any structure consisting of foundations, 40825
walls, columns, girders, beams, floors, and roof, or a combination 40826
of any number of these parts, with or without other parts or 40827
appurtenances. 40828

(3) "Industrialized unit" means a building unit or assembly 40829
of closed construction fabricated in an off-site facility, that is 40830
substantially self-sufficient as a unit or as part of a greater 40831
structure, and that requires transportation to the site of 40832
intended use. "Industrialized unit" includes units installed on 40833
the site as independent units, as part of a group of units, or 40834
incorporated with standard construction methods to form a 40835
completed structural entity. "Industrialized unit" does not 40836
include a manufactured home as defined by division (C)(4) of this 40837
section or a mobile home as defined by division (O) of section 40838
4501.01 of the Revised Code. 40839

(4) "Manufactured home" means a building unit or assembly of 40840
closed construction that is fabricated in an off-site facility and 40841
constructed in conformance with the federal construction and 40842
safety standards established by the secretary of housing and urban 40843
development pursuant to the "Manufactured Housing Construction and 40844
Safety Standards Act of 1974," 88 Stat. 700, 42 U.S.C.A. 5401, 40845
5403, and that has a permanent label or tag affixed to it, as 40846
specified in 42 U.S.C.A. 5415, certifying compliance with all 40847
applicable federal construction and safety standards. 40848

(5) "Permanent foundation" means permanent masonry, concrete, 40849
or a footing or foundation approved by the manufactured homes 40850
commission pursuant to Chapter 4781. of the Revised Code, to which 40851
a manufactured or mobile home may be affixed. 40852

(6) "Permanently sited manufactured home" means a 40853
manufactured home that meets all of the following criteria: 40854

(a) The structure is affixed to a permanent foundation and is connected to appropriate facilities;

(b) The structure, excluding any addition, has a width of at least twenty-two feet at one point, a length of at least twenty-two feet at one point, and a total living area, excluding garages, porches, or attachments, of at least nine hundred square feet;

(c) The structure has a minimum 3:12 residential roof pitch, conventional residential siding, and a six-inch minimum eave overhang, including appropriate guttering;

(d) The structure was manufactured after January 1, 1995;

(e) The structure is not located in a manufactured home park as defined by section ~~3733.01~~ 4781.01 of the Revised Code.

(7) "Safe," with respect to a building, means it is free from danger or hazard to the life, safety, health, or welfare of persons occupying or frequenting it, or of the public and from danger of settlement, movement, disintegration, or collapse, whether such danger arises from the methods or materials of its construction or from equipment installed therein, for the purpose of lighting, heating, the transmission or utilization of electric current, or from its location or otherwise.

(8) "Sanitary," with respect to a building, means it is free from danger or hazard to the health of persons occupying or frequenting it or to that of the public, if such danger arises from the method or materials of its construction or from any equipment installed therein, for the purpose of lighting, heating, ventilating, or plumbing.

(9) "Residential building" means a one-family, two-family, or three-family dwelling house, and any accessory structure incidental to that dwelling house. "Residential building" includes a one-family, two-family, or three-family dwelling house that is

used as a model to promote the sale of a similar dwelling house. 40886
"Residential building" does not include an industrialized unit as 40887
defined by division (C)(3) of this section, a manufactured home as 40888
defined by division (C)(4) of this section, or a mobile home as 40889
defined by division (O) of section 4501.01 of the Revised Code. 40890

(10) "Nonresidential building" means any building that is not 40891
a residential building or a manufactured or mobile home. 40892

(11) "Accessory structure" means a structure that is attached 40893
to a residential building and serves the principal use of the 40894
residential building. "Accessory structure" includes, but is not 40895
limited to, a garage, porch, or screened-in patio. 40896

Sec. 3781.102. (A) Any county or municipal building 40897
department certified pursuant to division (E) of section 3781.10 40898
of the Revised Code as of September 14, 1970, and that, as of that 40899
date, was inspecting single-family, two-family, and three-family 40900
residences, and any township building department certified 40901
pursuant to division (E) of section 3781.10 of the Revised Code, 40902
is hereby declared to be certified to inspect single-family, 40903
two-family, and three-family residences containing industrialized 40904
units, and shall inspect the buildings or classes of buildings 40905
subject to division (E) of section 3781.10 of the Revised Code. 40906

(B) Each board of county commissioners may adopt, by 40907
resolution, rules establishing standards and providing for the 40908
licensing of electrical and heating, ventilating, and air 40909
conditioning contractors who are not required to hold a valid and 40910
unexpired license pursuant to Chapter 4740. of the Revised Code. 40911

Rules adopted by a board of county commissioners pursuant to 40912
this division may be enforced within the unincorporated areas of 40913
the county and within any municipal corporation where the 40914
legislative authority of the municipal corporation has contracted 40915
with the board for the enforcement of the county rules within the 40916

municipal corporation pursuant to section 307.15 of the Revised Code. The rules shall not conflict with rules adopted by the board of building standards pursuant to section 3781.10 of the Revised Code or by the department of commerce pursuant to Chapter 3703. of the Revised Code. This division does not impair or restrict the power of municipal corporations under Section 3 of Article XVIII, Ohio Constitution, to adopt rules concerning the erection, construction, repair, alteration, and maintenance of buildings and structures or of establishing standards and providing for the licensing of specialty contractors pursuant to section 715.27 of the Revised Code.

A board of county commissioners, pursuant to this division, may require all electrical contractors and heating, ventilating, and air conditioning contractors, other than those who hold a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code, to successfully complete an examination, test, or demonstration of technical skills, and may impose a fee and additional requirements for a license to engage in their respective occupations within the jurisdiction of the board's rules under this division.

(C) No board of county commissioners shall require any specialty contractor who holds a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code to successfully complete an examination, test, or demonstration of technical skills in order to engage in the type of contracting for which the license is held, within the unincorporated areas of the county and within any municipal corporation whose legislative authority has contracted with the board for the enforcement of county regulations within the municipal corporation, pursuant to section 307.15 of the Revised Code.

(D) A board may impose a fee for registration of a specialty contractor who holds a valid and unexpired license issued pursuant

to Chapter 4740. of the Revised Code before that specialty 40949
contractor may engage in the type of contracting for which the 40950
license is held within the unincorporated areas of the county and 40951
within any municipal corporation whose legislative authority has 40952
contracted with the board for the enforcement of county 40953
regulations within the municipal corporation, pursuant to section 40954
307.15 of the Revised Code, provided that the fee is the same for 40955
all specialty contractors who wish to engage in that type of 40956
contracting. If a board imposes such a fee, the board immediately 40957
shall permit a specialty contractor who presents proof of holding 40958
a valid and unexpired license and pays the required fee to engage 40959
in the type of contracting for which the license is held within 40960
the unincorporated areas of the county and within any municipal 40961
corporation whose legislative authority has contracted with the 40962
board for the enforcement of county regulations within the 40963
municipal corporation, pursuant to section 307.15 of the Revised 40964
Code. 40965

(E) The political subdivision associated with each municipal, 40966
township, and county building department the board of building 40967
standards certifies pursuant to division (E) of section 3781.10 of 40968
the Revised Code may prescribe fees to be paid by persons, 40969
political subdivisions, or any department, agency, board, 40970
commission, or institution of the state, for the acceptance and 40971
approval of plans and specifications, and for the making of 40972
inspections, pursuant to sections 3781.03 and 3791.04 of the 40973
Revised Code. 40974

(F) Each political subdivision that prescribes fees pursuant 40975
to division (E) of this section shall collect, on behalf of the 40976
board of building standards, fees equal to the following: 40977

(1) Three per cent of the fees the political subdivision 40978
collects in connection with nonresidential buildings; 40979

(2) One per cent of the fees the political subdivision 40980

collects in connection with residential buildings. 40981

(G)(1) The board shall adopt rules, in accordance with 40982
Chapter 119. of the Revised Code, specifying the manner in which 40983
the fee assessed pursuant to division (F) of this section shall be 40984
collected and remitted monthly to the board. The board shall pay 40985
the fees into the state treasury to the credit of the ~~labor~~ 40986
industrial compliance operating fund created in section 121.084 of 40987
the Revised Code. 40988

(2) All money credited to the ~~labor~~ industrial compliance 40989
operating fund under this division shall be used exclusively for 40990
the following: 40991

(a) Operating costs of the board; 40992

(b) Providing services, including educational programs, for 40993
the building departments that are certified by the board pursuant 40994
to division (E) of section 3781.10 of the Revised Code; 40995

(c) Paying the expenses of the residential construction 40996
advisory committee, including the expenses of committee members as 40997
provided in section 4740.14 of the Revised Code. 40998

(H) A board of county commissioners that adopts rules 40999
providing for the licensing of electrical and heating, 41000
ventilating, and air conditioning contractors, pursuant to 41001
division (B) of this section, may accept, for purposes of 41002
satisfying the requirements of rules adopted under that division, 41003
a valid and unexpired license issued pursuant to Chapter 4740. of 41004
the Revised Code that is held by an electrical or heating, 41005
ventilating, and air conditioning contractor, for the 41006
construction, replacement, maintenance, or repair of one-family, 41007
two-family, or three-family dwelling houses or accessory 41008
structures incidental to those dwelling houses. 41009

(I) A board of county commissioners shall not register a 41010
specialty contractor who is required to hold a license under 41011

Chapter 4740. of the Revised Code but does not hold a valid 41012
license issued under that chapter. 41013

(J) As used in this section, "specialty contractor" means a 41014
heating, ventilating, and air conditioning contractor, 41015
refrigeration contractor, electrical contractor, plumbing 41016
contractor, or hydronics contractor, as those contractors are 41017
described in Chapter 4740. of the Revised Code. 41018

Sec. 3781.11. (A) The rules of the board of building 41019
standards shall: 41020

(1) For nonresidential buildings, provide uniform minimum 41021
standards and requirements, and for residential buildings, provide 41022
standards and requirements that are uniform throughout the state, 41023
for construction and construction materials, including 41024
construction of industrialized units, to make residential and 41025
nonresidential buildings safe and sanitary as defined in section 41026
3781.06 of the Revised Code; 41027

(2) Formulate such standards and requirements, so far as may 41028
be practicable, in terms of performance objectives, so as to make 41029
adequate performance for the use intended the test of 41030
acceptability; 41031

(3) Permit, to the fullest extent feasible, the use of 41032
materials and technical methods, devices, and improvements, 41033
including the use of industrialized units which tend to reduce the 41034
cost of construction and erection without affecting minimum 41035
requirements for the health, safety, and security of the occupants 41036
or users of buildings or industrialized units and without 41037
preferential treatment of types or classes of materials or 41038
products or methods of construction; 41039

(4) Encourage, so far as may be practicable, the 41040
standardization of construction practices, methods, equipment, 41041

material, and techniques, including methods employed to produce 41042
industrialized units; 41043

(5) Not require any alteration or repair of any part of a 41044
school building owned by a chartered nonpublic school or a city, 41045
local, exempted village, or joint vocational school district and 41046
operated in conjunction with any primary or secondary school 41047
program that is not being altered or repaired if all of the 41048
following apply: 41049

(a) The school building meets all of the applicable building 41050
code requirements in existence at the time of the construction of 41051
the building. 41052

(b) The school building otherwise satisfies the requirements 41053
of section 3781.06 of the Revised Code. 41054

(c) The part of the school building altered or repaired 41055
conforms to all rules of the board existing on the date of the 41056
repair or alteration. 41057

(6) Not require any alteration or repair to any part of a 41058
workshop or factory that is not otherwise being altered, repaired, 41059
or added to if all of the following apply: 41060

(a) The workshop or factory otherwise satisfies the 41061
requirements of section 3781.06 of the Revised Code. 41062

(b) The part of the workshop or factory altered, repaired, or 41063
added conforms to all rules of the board existing on the date of 41064
plan approval of the repair, alteration, or addition. 41065

(B) The rules of the board shall supersede and govern any 41066
order, standard, or rule of the division of ~~labor~~ industrial 41067
compliance in the department of commerce, division of the state 41068
fire marshal, the department of health, and of counties and 41069
townships, in all cases where such orders, standards, or rules are 41070
in conflict with the rules of the board, except that rules adopted 41071

and orders issued by the state fire marshal pursuant to Chapter 41072
3743. of the Revised Code prevail in the event of a conflict. 41073

(C) The construction, alteration, erection, and repair of 41074
buildings including industrialized units, and the materials and 41075
devices of any kind used in connection with them and the heating 41076
and ventilating of them and the plumbing and electric wiring in 41077
them shall conform to the statutes of this state or the rules 41078
adopted and promulgated by the board, and to provisions of local 41079
ordinances not inconsistent therewith. Any building, structure, or 41080
part thereof, constructed, erected, altered, manufactured, or 41081
repaired not in accordance with the statutes of this state or with 41082
the rules of the board, and any building, structure, or part 41083
thereof in which there is installed, altered, or repaired any 41084
fixture, device, and material, or plumbing, heating, or 41085
ventilating system, or electric wiring not in accordance with such 41086
statutes or rules is a public nuisance. 41087

(D) As used in this section: 41088

(1) "Nonpublic school" means a chartered school for which 41089
minimum standards are prescribed by the state board of education 41090
pursuant to division (D) of section 3301.07 of the Revised Code. 41091

(2) "Workshop or factory" includes manufacturing, mechanical, 41092
electrical, mercantile, art, and laundering establishments, 41093
printing, telegraph, and telephone offices, railroad depots, and 41094
memorial buildings, but does not include hotels and tenement and 41095
apartment houses. 41096

Sec. 3781.112. (A) As used in this section, "secured 41097
facility" means any of the following: 41098

(1) A maternity ~~boardinghouse or lying-in hospital unit,~~ 41099
newborn care nursery, or maternity home licensed under ~~section~~ 41100
3711.02 Chapter 3711. of the Revised Code; 41101

(2) A pediatric intensive care unit subject to rules adopted 41102
by the director of health pursuant to section 3702.11 of the 41103
Revised Code; 41104

(3) A children's hospital, as defined in section ~~3702.51~~ 41105
3727.01 of the Revised Code; 41106

(4) A hospital that is licensed under section 5119.20 of the 41107
Revised Code to receive mentally ill persons; 41108

(5) The portion of a nursing home licensed under section 41109
3721.02 of the Revised Code or in accordance with section 3721.09 41110
of the Revised Code in which specialized care is provided to 41111
residents of the nursing home who have physical or mental 41112
conditions that require a resident to be restricted in the 41113
resident's freedom of movement for the health and safety of the 41114
resident, the staff attending the resident, or the general public. 41115

(B) A secured facility may take reasonable steps in 41116
accordance with rules the board of building standards adopts under 41117
division (A) of section 3781.10 of the Revised Code and in 41118
accordance with the state fire code the fire marshal adopts under 41119
section 3737.82 of the Revised Code, to deny egress to confine and 41120
protect patients or residents of the secured facility who are not 41121
capable of self-preservation. A secured facility that wishes to 41122
deny egress to those patients or residents may use delayed-egress 41123
doors and electronically coded doors to deny egress, on the 41124
condition that those doors are installed and used in accordance 41125
with rules the board of building standards adopts under division 41126
(A) of section 3781.10 of the Revised Code and in accordance with 41127
the state fire code the fire marshal adopts under section 3737.82 41128
of the Revised Code. A secured facility also may install 41129
controlled-egress locks, in compliance with rules the board of 41130
building standards adopts under division (A) section 3781.10 of 41131
the Revised Code and in compliance with the state fire code the 41132
fire marshal adopts under section 3737.82 of the Revised Code, in 41133

areas of the secured facility where patients or residents who have 41134
physical or mental conditions that would endanger the patients or 41135
residents, the staff attending the patients or residents, or the 41136
general public if those patients or residents are not restricted 41137
in their freedom of movement. A secured facility that uses 41138
delayed-egress doors and electronically coded doors, 41139
controlled-egress locks, or both, shall do both of the following: 41140

(1) Provide continuous, twenty-four-hour custodial care to 41141
the patients or residents of the facility; 41142

(2) Establish a system to evacuate patients or residents in 41143
the event of fire or other emergency. 41144

Sec. 3783.05. The board of building standards, in accordance 41145
with Chapters 119., 3781., and 3791. of the Revised Code, shall 41146
adopt, amend, or repeal such rules as may be reasonably necessary 41147
to administer this chapter. All fees collected by the board 41148
pursuant to this chapter shall be paid into the state treasury to 41149
the credit of the ~~labor~~ industrial compliance operating fund 41150
created in section 121.084 of the Revised Code. 41151

Sec. 3791.02. No owner, or person having the control as an 41152
officer or member of a board or committee or otherwise of any 41153
opera house, hall, theater, church, schoolhouse, college, academy, 41154
seminary, infirmary, sanitarium, children's home, hospital, 41155
medical institute, asylum, memorial building, armory, assembly 41156
hall, or other building for the assemblage or betterment of people 41157
shall fail to obey any order of the state fire marshal, boards of 41158
health of city and general health districts, the building 41159
inspector or commissioner in cities having a building inspection 41160
department, or the superintendent of ~~labor~~ industrial compliance 41161
in the department of commerce under Chapters 3781. and 3791. of 41162
the Revised Code or rules or regulations adopted pursuant thereto. 41163

Whoever violates this section shall be fined not more than 41164
one thousand dollars. 41165

Sec. 3791.04. (A)(1) Before beginning the construction, 41166
erection, or manufacture of any building to which section 3781.06 41167
of the Revised Code applies, including all industrialized units, 41168
the owner of that building, in addition to any other submission 41169
required by law, shall submit plans or drawings, specifications, 41170
and data prepared for the construction, erection, equipment, 41171
alteration, or addition that indicate the portions that have been 41172
approved pursuant to section 3781.12 of the Revised Code and for 41173
which no further approval is required, to the municipal, township, 41174
or county building department having jurisdiction unless one of 41175
the following applies: 41176

(a) If no municipal, township, or county building department 41177
certified for nonresidential buildings pursuant to division (E) of 41178
section 3781.10 of the Revised Code has jurisdiction, the owner 41179
shall make the submissions described in division (A)(1) of this 41180
section to the superintendent of ~~labor~~ industrial compliance. 41181

(b) If no certified municipal, township, or county building 41182
department certified for residential buildings pursuant to 41183
division (E) of section 3781.10 of the Revised Code has 41184
jurisdiction, the owner is not required to make the submissions 41185
described in division (A)(1) of this section. 41186

(2)(a) The seal of an architect registered under Chapter 41187
4703. of the Revised Code or an engineer registered under Chapter 41188
4733. of the Revised Code is required for any plans, drawings, 41189
specifications, or data submitted for approval, unless the plans, 41190
drawings, specifications, or data are permitted to be prepared by 41191
persons other than registered architects pursuant to division (C) 41192
or (D) of section 4703.18 of the Revised Code, or by persons other 41193
than registered engineers pursuant to division (C) or (D) of 41194

section 4733.18 of the Revised Code. 41195

(b) No seal is required for any plans, drawings, 41196
specifications, or data submitted for approval for any residential 41197
buildings, as defined in section 3781.06 of the Revised Code, or 41198
erected as industrialized one-, two-, or three-family units or 41199
structures within the meaning of "industrialized unit" as defined 41200
in section 3781.06 of the Revised Code. 41201

(c) No seal is required for approval of the installation of 41202
replacement equipment or systems that are similar in type or 41203
capacity to the equipment or systems being replaced. No seal is 41204
required for approval for any new construction, improvement, 41205
alteration, repair, painting, decorating, or other modification of 41206
any buildings or structures subject to sections 3781.06 to 3781.18 41207
and 3791.04 of the Revised Code if the proposed work does not 41208
involve technical design analysis, as defined by rule adopted by 41209
the board of building standards. 41210

(B) No owner shall proceed with the construction, erection, 41211
alteration, or equipment of any building until the plans or 41212
drawings, specifications, and data have been approved as this 41213
section requires, or the industrialized unit inspected at the 41214
point of origin. No plans or specifications shall be approved or 41215
inspection approval given unless the building represented would, 41216
if constructed, repaired, erected, or equipped, comply with 41217
Chapters 3781. and 3791. of the Revised Code and any rule made 41218
under those chapters. 41219

(C) The approval of plans or drawings and specifications or 41220
data pursuant to this section is invalid if construction, 41221
erection, alteration, or other work upon the building has not 41222
commenced within twelve months of the approval of the plans or 41223
drawings and specifications. One extension shall be granted for an 41224
additional twelve-month period if the owner requests at least ten 41225
days in advance of the expiration of the permit and upon payment 41226

of a fee not to exceed one hundred dollars. If in the course of 41227
construction, work is delayed or suspended for more than six 41228
months, the approval of plans or drawings and specifications or 41229
data is invalid. Two extensions shall be granted for six months 41230
each if the owner requests at least ten days in advance of the 41231
expiration of the permit and upon payment of a fee for each 41232
extension of not more than one hundred dollars. Before any work 41233
may continue on the construction, erection, alteration, or 41234
equipment of any building for which the approval is invalid, the 41235
owner of the building shall resubmit the plans or drawings and 41236
specifications for approval pursuant to this section. 41237

(D) Subject to section 3791.042 of the Revised Code, the 41238
board of building standards or the legislative authority of a 41239
municipal corporation, township, or county, by rule, may regulate 41240
the requirements for the submission of plans and specifications to 41241
the respective enforcing departments and for processing by those 41242
departments. The board of building standards or the legislative 41243
authority of a municipal corporation, township, or county may 41244
adopt rules to provide for the approval, subject to section 41245
3791.042 of the Revised Code, by the department having 41246
jurisdiction of the plans for construction of a foundation or any 41247
other part of a building or structure before the complete plans 41248
and specifications for the entire building or structure are 41249
submitted. When any plans are approved by the department having 41250
jurisdiction, the structure and every particular represented by 41251
and disclosed in those plans shall, in the absence of fraud or a 41252
serious safety or sanitation hazard, be conclusively presumed to 41253
comply with Chapters 3781. and 3791. of the Revised Code and any 41254
rule issued pursuant to those chapters, if constructed, altered, 41255
or repaired in accordance with those plans and any rule in effect 41256
at the time of approval. 41257

(E) The approval of plans and specifications, including 41258

inspection of industrialized units, under this section is a 41259
"license" and the failure to approve plans or specifications as 41260
submitted or to inspect the unit at the point of origin within 41261
thirty days after the plans or specifications are filed or the 41262
request to inspect the industrialized unit is made, the 41263
disapproval of plans and specifications, or the refusal to approve 41264
an industrialized unit following inspection at the point of origin 41265
is "an adjudication order denying the issuance of a license" 41266
requiring an "adjudication hearing" as provided by sections 119.07 41267
to 119.13 of the Revised Code and as modified by sections 3781.031 41268
and 3781.19 of the Revised Code. An adjudication order denying the 41269
issuance of a license shall specify the reasons for that denial. 41270

(F) The board of building standards shall not require the 41271
submission of site preparation plans or plot plans to the division 41272
of ~~labor~~ industrial compliance when industrialized units are used 41273
exclusively as one-, two-, or three-family dwellings. 41274

(G) Notwithstanding any procedures the board establishes, if 41275
the agency having jurisdiction objects to any portion of the plans 41276
or specifications, the owner or the owner's representative may 41277
request the agency to issue conditional approval to proceed with 41278
construction up to the point of the objection. Approval shall be 41279
issued only when the objection results from conflicting 41280
interpretations of the rules of the board of building standards 41281
rather than the application of specific technical requirements of 41282
the rules. Approval shall not be issued where the correction of 41283
the objection would cause extensive changes in the building design 41284
or construction. The giving of conditional approval is a 41285
"conditional license" to proceed with construction up to the point 41286
where the construction or materials objected to by the agency are 41287
to be incorporated into the building. No construction shall 41288
proceed beyond that point without the prior approval of the agency 41289
or another agency that conducts an adjudication hearing relative 41290

to the objection. The agency having jurisdiction shall specify its objections to the plans or specifications, which is an "adjudication order denying the issuance of a license" and may be appealed pursuant to sections 119.07 to 119.13 of the Revised Code and as modified by sections 3781.031 and 3781.19 of the Revised Code.

(H) A certified municipal, township, or county building department having jurisdiction, or the superintendent, as appropriate, shall review any plans, drawings, specifications, or data described in this section that are submitted to it or to the superintendent.

(I) No owner or persons having control as an officer, or as a member of a board or committee, or otherwise, of a building to which section 3781.06 of the Revised Code is applicable, and no architect, designer, engineer, builder, contractor, subcontractor, or any officer or employee of a municipal, township, or county building department shall violate this section.

(J) Whoever violates this section shall be fined not more than five hundred dollars.

Sec. 3791.05. No owner, lessee, agent, factor, architect, or contractor engaged in and having supervision or charge of the building, erection, or construction of a block, building, or structure, shall neglect or refuse to place or have placed upon the joists of each story thereof, as soon as joists are in position, counter floors of such quality and strength as to render perfectly safe the going to and from thereon of all mechanics, laborers, and other persons engaged upon the work of construction or supervision, or in placing materials for such construction.

Whoever violates this section shall be fined not less than twenty-five nor more than two hundred dollars.

Each day that such person neglects or refuses to have such
counter floors so placed, after notice is given by a building
inspector, a chief inspector, or deputy inspector of the city
building inspection department in cities where such department is
organized, or by the superintendent of ~~labor~~ industrial compliance
of the state, in cities where such departments are not organized,
or from a person whose life or personal safety may be endangered
by such neglect or refusal, is a separate offense.

Sec. 3791.07. (A) The board of building standards may
establish such reasonable inspection fee schedules as it
determines necessary or desirable relating to the inspection of
all plans and specifications submitted for approval to the
division of ~~labor~~ industrial compliance, and all industrialized
units inspected at the point of origin and at the construction
site of the building. The inspection fee schedule established
shall bear some reasonable relationship to the cost of
administering and enforcing the provisions of Chapters 3781. and
3791. of the Revised Code.

(B) In addition to the fee assessed in division (A) of this
section, the board shall assess a fee of not more than five
dollars for each application for acceptance and approval of plans
and specifications and for making inspections pursuant to section
3791.04 of the Revised Code. The board shall adopt rules, in
accordance with Chapter 119. of the Revised Code, specifying the
manner by which the superintendent of ~~labor~~ industrial compliance
shall collect and remit to the board the fees assessed under this
division and requiring that remittance of the fees be made at
least quarterly.

(C) Any person who fails to pay an inspection fee required
for any inspection conducted by the department of commerce
pursuant to Chapters 3781. and 3791. of the Revised Code, except

for fees charged for the inspection of plans and specifications, 41352
within forty-five days after the inspection is conducted, shall 41353
pay a late payment fee equal to twenty-five per cent of the 41354
inspection fee. 41355

(D) The board shall pay the fees assessed under this section 41356
into the state treasury to the credit of the ~~labor~~ industrial 41357
compliance operating fund created in section 121.084 of the 41358
Revised Code. 41359

Sec. 3791.11. (A) As used in this section and sections 41360
3791.12 and 3791.13 of the Revised Code: 41361

(1) "Service station" means any facility designed and 41362
constructed primarily for use in the retail sale of gasoline, 41363
other petroleum products, and related accessories; except that 41364
"service station" does not include any such facility that has been 41365
converted for use for another bona fide business purpose, on and 41366
after the date of commencement of such other use. 41367

(2) "Abandoned service station" means any service station 41368
that has not been used for the retail sale of gasoline, other 41369
petroleum products, and related accessories for a continuous 41370
period of six months, whenever failure to reasonably secure 41371
station buildings from ready access by unauthorized persons and to 41372
reasonably maintain the station's premises has resulted in 41373
conditions that endanger the public health, welfare, safety, or 41374
morals; provided, that such conditions include, but are not 41375
limited to, the presence of defective or deteriorated electrical 41376
wiring, heating apparatus, and gas connections, or of unprotected 41377
gasoline storage tanks, piping, and valves, or any combination of 41378
the foregoing; and provided further that the casual and 41379
intermittent use of a service station for the retail sale of any 41380
item described in division (A)(1) of this section during such 41381
six-month period shall not be held to prevent the station from 41382

being determined an abandoned service station if it meets the 41383
other qualifications of this division. 41384

(B) No person shall construct, renew operation of, or 41385
continue operation of a service station unless, prior to the 41386
commencement of construction or renewed operation and during the 41387
period of continued operation, a valid bond is on file as provided 41388
in division (C) ~~or (D)~~ of this section. The bond shall be obtained 41389
by the owner of the property if ~~he~~ the owner is also the owner of 41390
the service station. If the owner of the property is not the owner 41391
of the service station, then the bond shall be obtained by the 41392
lessee of the property; except that such lessee shall be other 41393
than any person who leases and operates the service station 41394
pursuant to a contract with a supplier of gasoline and petroleum 41395
products. The bond shall identify and list the name and address of 41396
the property owner and any lessee other than a person who leases 41397
and operates the service station pursuant to a contract with a 41398
supplier of gasoline and petroleum products. 41399

(C) The bond required by division (B) of this section shall 41400
be filed annually with the executive authority of the municipal 41401
corporation in which the service station is, or is to be, located, 41402
or with the clerk of the board of county commissioners if the 41403
service station is not, or is not to be, located within a 41404
municipal corporation. The bond shall either be a cash bond or 41405
have sufficient sureties approved by the executive authority or 41406
clerk with whom it is filed. The bond shall be for a term of one 41407
year and shall be renewed annually. The bond shall be in the 41408
amount of three thousand dollars for each service station to 41409
provide for the repair or removal of the service station and its 41410
appurtenances and restoration of the property. The bond shall be 41411
conditioned upon the repair or removal of the service station and 41412
restoration of the property if the service station is determined 41413
to be an abandoned service station as provided in section 3791.12 41414

of the Revised Code. If the service station is determined to be an 41415
abandoned service station, and division (D) or (F) of section 41416
3791.12 of the Revised Code applies, the bond shall be forfeited 41417
and the proceeds applied to the costs of repair or removal and 41418
restoration as provided in section 3791.13 of the Revised Code. If 41419
the amount of the bond exceeds the costs of repair or removal and 41420
restoration, the excess shall be returned to the depositor. 41421

~~(D) Whenever a property owner or lessee, other than a person 41422
leasing and operating a service station pursuant to a contract 41423
with a supplier of gasoline and other petroleum products, owns, 41424
leases, or is constructing two or more service stations in this 41425
state, such owner or lessee may deposit with the treasurer of 41426
state, in lieu of the bond required by division (C) of this 41427
section, money or a surety bond approved by the treasurer in the 41428
amount of one hundred fifty thousand dollars, or bonds of the 41429
United States, this state, or of a political subdivision of this 41430
state, having a market value, as determined by the treasurer, of 41431
one hundred fifty thousand dollars. The bond or deposit shall 41432
cover all service stations owned in the state, being constructed, 41433
leased, or operated by the depositor and shall be conditioned upon 41434
the repair or removal of any such station and its appurtenances 41435
and restoration of the property, if the station is determined to 41436
be an abandoned service station as provided in section 3791.12 of 41437
the Revised Code. If any such service station is determined to be 41438
an abandoned service station, and division (D) or (F) of section 41439
3791.12 of the Revised Code applies, the portion of the bond or 41440
deposit required to pay the costs of repair or removal and 41441
restoration shall be forfeited and paid to the executive authority 41442
of the municipal corporation or to the board of county 41443
commissioners of the county, upon request therefor. If the surety 41444
refuses to pay the costs of repair or removal and restoration to 41445
the treasurer, the treasurer shall forthwith file an action on the 41446
bond in the amount certified by the executive authority or board 41447~~

~~as the costs of repair or removal and restoration, and shall pay 41448
to the executive authority or board the proceeds of any judgment. 41449
A bond or deposit shall remain valid as long as it is sufficient 41450
to cover one hundred thousand dollars of liability. If the bond or 41451
deposit is reduced to a lesser amount, it shall be invalid unless 41452
sufficient additional bond or deposit is provided to restore the 41453
amount of liability covered to one hundred fifty thousand dollars. 41454~~

Sec. 3791.12. (A) The executive authority of each municipal 41455
corporation and the board of county commissioners of each county 41456
shall designate a suitable person to make inspections, within 41457
their respective territorial jurisdictions, of any service 41458
stations that are, or appear to be, no longer in use for the 41459
purposes described in division (A)(1) of section 3791.11 of the 41460
Revised Code, or for any other bona fide business purpose. 41461
Inspections of service stations under this section shall be made 41462
at the order of the executive authority or board, or upon the 41463
complaint of any person claiming to be adversely affected by the 41464
condition of a service station. Any inspector designated under 41465
this section shall have the right to enter upon and inspect any 41466
service station that is, or appears to be, no longer in use as 41467
described in this section. No inspector, while in the lawful 41468
pursuit of ~~his~~ official duties for such purpose, shall be subject 41469
to arrest for trespass while so engaged or for such cause 41470
thereafter. 41471

(B) Whenever an inspector, upon inspecting a service station 41472
as provided in this section, has reasonable cause to believe that 41473
it qualifies as an abandoned service station, ~~he~~ the inspector 41474
shall prepare a written report of the condition of the station's 41475
buildings and premises. The report shall be filed immediately with 41476
the executive authority or board. Upon receipt of the report, the 41477
executive authority or board shall fix a place and time, not less 41478
than thirty days nor more than sixty days after receipt of the 41479

report, for a hearing to determine whether the service station is 41480
an abandoned service station. The executive authority or board 41481
shall send written notice of the place and date of the hearing, 41482
together with a copy of the inspector's report and information 41483
that the service station may be ordered repaired or removed if 41484
determined to be abandoned, to all persons listed in the bond 41485
filed under division (C) ~~or (D)~~ of section 3791.11 of the Revised 41486
Code, and to all persons listed in the records of the county 41487
recorder or county clerk of courts as holding a lien on the 41488
affected property. Such notice shall be sent by certified mail to 41489
the address shown on such records. 41490

(C) In hearing the matter and deciding the issue, the 41491
executive authority or board shall consider the testimony of any 41492
persons appearing pursuant to the notice, or their authorized 41493
representatives, the testimony of any witnesses appearing on 41494
behalf of such persons, the inspector's report or testimony, or 41495
both, and any other evidence pertinent to the matter. If the 41496
executive authority or board thereupon determines that the service 41497
station is an abandoned service station in such condition as to 41498
constitute a danger to the public health, welfare, safety, or 41499
morals, it shall order the satisfactory repair, or removal, of the 41500
service station and its appurtenances, and restoration of the 41501
property, within such period of time, not less than thirty days, 41502
as the executive authority or board thereupon determines 41503
reasonable. Notice of the findings and order shall be sent to all 41504
persons required to be notified by division (B) of this section in 41505
the same manner as provided in that division. 41506

(D) If an abandoned service station is not satisfactorily 41507
repaired or removed within the period of time provided in an order 41508
made under division (C) of this section, the municipal corporation 41509
or county may enter the land and complete the repair, if repair 41510
was ordered, or remove the service station and its appurtenances, 41511

if removal was ordered, and restore the property. 41512

(E) Any person aggrieved by an order of an executive 41513
authority or board made under division (C) of this section, may 41514
appeal as provided in Chapter 2506. of the Revised Code within 41515
thirty days of the mailing of notice of the order. 41516

(F) In the event that no persons notified as provided in 41517
division (B) of this section, or their authorized representatives, 41518
appear at the hearing, respond to an order of the executive 41519
authority or board, or appeal within thirty days of the mailing of 41520
notice of the order as provided in division (E) of this section, 41521
the municipal corporation or county may proceed as provided in 41522
division (D) of this section. 41523

Sec. 3793.04. The department of alcohol and drug addiction 41524
services shall develop, administer, and revise as necessary a 41525
comprehensive statewide alcohol and drug addiction services plan 41526
for the implementation of this chapter. The plan shall emphasize 41527
abstinence from the use of alcohol and drugs of abuse as the 41528
primary goal of alcohol and drug addiction services. The council 41529
on alcohol ~~and~~, drug, and gambling addiction services shall advise 41530
the department in the development and implementation of the plan. 41531

The plan shall provide for the allocation and distribution of 41532
funds appropriated to the department by the general assembly for 41533
services furnished by alcohol and drug addiction programs under 41534
contract with boards of alcohol, drug addiction, and mental health 41535
services. The department shall exclude from the allocation and 41536
distribution any funds that are transferred to the department of 41537
job and family services to pay the nonfederal share of alcohol and 41538
drug addiction services covered by the medicaid program. 41539

The plan shall specify the methodology that the department 41540
will use for determining how the funds will be allocated and 41541
distributed. A portion of the funds shall be allocated on the 41542

basis of the ratio of the population of each alcohol, drug 41543
addiction, and mental health service district to the total 41544
population of the state as determined from the most recent federal 41545
census or the most recent official estimate made by the United 41546
States census bureau. 41547

The plan shall ensure that alcohol and drug addiction 41548
services of a high quality are accessible to, and responsive to 41549
the needs of, all persons, especially those who are members of 41550
underserved groups, including, but not limited to, African 41551
Americans, Hispanics, native Americans, Asians, juvenile and adult 41552
offenders, women, veterans, and persons with special services 41553
needs due to age or disability. The plan shall include a program 41554
to promote and protect the rights of those who receive services. 41555

To aid in formulating the plan and in evaluating the 41556
effectiveness and results of alcohol and drug addiction services, 41557
the department, in consultation with the department of mental 41558
health, shall establish and maintain an information system or 41559
systems. The department of alcohol and drug addiction services 41560
shall specify the information that must be provided by boards of 41561
alcohol, drug addiction, and mental health services and by alcohol 41562
and drug addiction programs for inclusion in the system. The 41563
department shall not collect any personal information from the 41564
boards except as required or permitted by state or federal law for 41565
purposes related to payment, health care operations, program and 41566
service evaluation, reporting activities, research, system 41567
administration, and oversight. 41568

In consultation with boards, programs, and persons receiving 41569
services, the department shall establish guidelines for the use of 41570
funds allocated and distributed under this section and for the 41571
boards' development of plans for services required by sections 41572
340.033 and 3793.05 of the Revised Code. 41573

In any fiscal year, the department shall spend, or allocate 41574

to boards, for methadone maintenance programs or any similar 41575
programs not more than eight per cent of the total amount 41576
appropriated to the department for the fiscal year. 41577

Sec. 3793.041. The department of alcohol and drug addiction 41578
services shall develop, administer, and revise as necessary a 41579
comprehensive statewide gambling addiction services plan. The 41580
council on alcohol, drug, and gambling addiction services shall 41581
advise the department in the development and implementation of the 41582
plan. 41583

The plan shall provide for allocation and distribution of 41584
funds from the problem casino gambling and addictions fund 41585
described in Section 6(C)(3)(g) of Article XV, Ohio Constitution, 41586
and any funding to be distributed by the department for problem 41587
gambling. 41588

The plan shall specify the methodology that the department 41589
will use for determining how the funds will be allocated and 41590
distributed. A portion of the funds shall be allocated on the 41591
basis of the ratio of the population of each alcohol, drug 41592
addiction, and mental health service district to the total 41593
population of the state as determined from the most recent federal 41594
census or the most recent official estimate made by the United 41595
States census bureau. 41596

The plan shall ensure that gambling addiction services of a 41597
high quality are accessible to, and responsive to the needs of, 41598
all persons, especially those who are members of underserved 41599
groups, including, but not limited to, African Americans, 41600
Hispanics, native Americans, Asians, juvenile and adult offenders, 41601
women, veterans, and persons with special services needs due to 41602
age or disability. The plan shall include a program to promote and 41603
protect the rights of those who receive services. 41604

To aid in formulating the plan and in evaluating the 41605

effectiveness and results of gambling addiction services, the 41606
department, in consultation with the department of mental health, 41607
shall establish and maintain an information system or systems. The 41608
department of alcohol and drug addiction services shall specify 41609
the information that must be provided by boards of alcohol, drug 41610
addiction, and mental health services and by gambling addiction 41611
programs for inclusion in the system. The department shall not 41612
collect any personal information from the boards except as 41613
required or permitted by state or federal law for purposes related 41614
to payment, health care operations, program and service 41615
evaluation, reporting activities, research, system administration, 41616
and oversight. 41617

In consultation with boards, programs, and persons receiving 41618
services, the department shall establish guidelines for the use of 41619
funds allocated and distributed under this section. 41620

Sec. 3793.09. (A) There is hereby created the council on 41621
alcohol ~~and~~, drug, and gambling addiction services which shall 41622
consist of the public officials specified in division (B) of this 41623
section, or their designees, and ~~thirteen~~ fourteen members 41624
appointed by the governor with the advice and consent of the 41625
senate. The members appointed by the governor shall be 41626
representatives of the following: boards of alcohol, drug 41627
addiction, and mental health services; the criminal and juvenile 41628
justice systems; ~~and~~ alcohol and drug addiction programs; and 41629
gambling addiction programs. At least four of the appointed 41630
members shall be persons who have received or are receiving 41631
alcohol or drug addiction services or are parents or other 41632
relatives of such persons; of these at least two shall be women 41633
and at least one shall be a member of a minority ~~group~~. 41634

~~The governor shall make initial appointments to the council~~ 41635
~~not later than thirty days after October 10, 1989. Of the initial~~ 41636

~~appointments, six shall be for terms ending July 31, 1991, and
seven shall be for terms ending July 31, 1992. Thereafter, terms
group. At least one appointed member shall be an individual who
has received or is receiving gambling addiction services.~~

Terms of office shall be two years, with each term ending on
the same day of the same month as the term it succeeds. Each
member shall hold office from the date of the member's appointment
until the end of the term for which the member was appointed.
Members may be reappointed. Vacancies shall be filled in the same
manner as original appointments. Any member appointed to fill a
vacancy occurring prior to the expiration of the term for which
the member's predecessor was appointed shall hold office as a
member for the remainder of the term. A member shall continue in
office subsequent to the expiration of the member's term until the
member's successor takes office or until a period of sixty days
has elapsed, whichever occurs first.

(B) The directors of health, public safety, mental health,
rehabilitation and correction, and youth services; the
superintendents of public instruction and liquor control; the
attorney general; the adjutant general; ~~and~~ the executive director
of the division of criminal justice services in the department of
public safety; the executive director of the casino control
commission; the executive director of the lottery commission; and
the executive director of the state racing commission shall be
voting members of the council, except that any of these officials
may designate an individual to serve in the official's place as a
voting member of the council. The director of alcohol and drug
addiction services shall serve as a nonvoting member of the
council.

(C) The governor shall annually appoint a chairperson from
among the members of the council. The council shall meet quarterly
and at other times the chairperson considers necessary. In

addition to other duties specified in this chapter, the council 41669
shall review the development of the comprehensive statewide plan 41670
for alcohol and drug addiction services, the comprehensive 41671
statewide plan for gambling addiction services, revisions of ~~the~~ 41672
~~plan~~ those plans, and other actions taken to implement the 41673
purposes of this chapter by the department of alcohol and drug 41674
addiction services and shall act as an advisory council to the 41675
director of alcohol and drug addiction services. 41676

(D) Members of the council shall serve without compensation, 41677
but shall be paid actual and necessary expenses incurred in the 41678
performance of their duties. 41679

Sec. 3798.01. As used in this chapter: 41680

(A) "Approved health information exchange" means a health 41681
information exchange that has been approved or reapproved by the 41682
director of job and family services pursuant to the approval or 41683
reapproval process, as applicable, the director establishes in 41684
rules adopted under division (A) of section 3798.15 of the Revised 41685
Code. 41686

(B) "Covered entity," "disclosure," "health information," 41687
"individually identifiable health information," "protected health 41688
information," and "use" have the same meanings as in 45 C.F.R. 41689
160.103. 41690

(C) "Designated record set" has the same meaning as in 45 41691
C.F.R. 164.501. 41692

(D) "Health care component" and "hybrid entity" have the same 41693
meanings as in 45 C.F.R. 164.103. 41694

(E) "Health information exchange" means any person or 41695
governmental entity in this state that does both of the following: 41696

(1) Operates a technical infrastructure for the electronic 41697
movement of health information among covered entities; 41698

(2) Establishes and enforces policies governing the use of the technical infrastructure that is operated. 41699
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(F) "HIPAA privacy rule" means the standards for privacy of individually identifiable health information in 45 C.F.R. part 160 and in 45 C.F.R. part 164, subparts A and E. 41701
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(G) "Interoperability" means the capacity of two or more information systems to exchange information in an accurate, effective, secure, and consistent manner. 41704
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(H) "Minor" means an unemancipated person under eighteen years of age or a mentally or physically disabled person under twenty-one years of age who meets criteria specified in rules adopted by the director of job and family services under section 3798.13 of the Revised Code. 41707
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(I) "More stringent" has the same meaning as in 45 C.F.R. 160.202. 41712
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(J) "Office of health transformation" means the office of health transformation created by executive order 2011-02K or a successor governmental entity responsible for health system oversight in this state. 41714
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(K) "Personal representative" means a person who has authority under applicable law to make decisions related to health care on behalf of an adult or emancipated minor, or the parent, legal guardian, or other person acting in loco parentis who is authorized under law to make health care decisions on behalf of an unemancipated minor. "Personal representative" does not include the parent or legal guardian of, or another person acting in loco parentis to, a minor who consents to the minor's own receipt of health care or a minor who makes medical decisions on the minor's own behalf pursuant to law, court approval, or because the minor's parent, legal guardian, or other person acting in loco parentis has assented to an agreement of confidentiality between the 41718
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provider and the minor. 41730

(L) "Political subdivision" means a municipal corporation, 41731
township, county, school district, or other body corporate and 41732
politic responsible for governmental activities in a geographic 41733
area smaller than that of the state. 41734

(M) "State agency" means any one or more of the following: 41735

(1) The department of aging; 41736

(2) The department of alcohol and drug addiction services; 41737

(3) The department of developmental disabilities; 41738

(4) The department of education; 41739

(5) The department of health; 41740

(6) The department of insurance; 41741

(7) The department of job and family services; 41742

(8) The department of mental health; 41743

(9) The department of rehabilitation and correction; 41744

(10) The department of youth services; 41745

(11) The bureau of workers' compensation; 41746

(12) The rehabilitation services commission; 41747

(13) The office of the attorney general; 41748

(14) A health care licensing board created under Title XLVII 41749
of the Revised Code that possesses individually identifiable 41750
health information. 41751

Sec. 3798.02. It is the intent of the general assembly in 41752
enacting this chapter to make the laws of this state governing the 41753
use and disclosure of protected health information by covered 41754
entities consistent with, but generally not more stringent than, 41755
the HIPAA privacy rule for the purpose of eliminating barriers to 41756

the adoption and use of electronic health records and health information exchanges. Therefore, it is also the general assembly's intent in enacting this chapter to supersede any judicial or administrative ruling issued in this state that is inconsistent with the provisions of this chapter. 41757
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Sec. 3798.03. (A) Subject to division (B) of this section, a covered entity shall do both of the following: 41762
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(1) If an individual's protected health information is maintained by the covered entity in a designated record set, provide the individual or the individual's personal representative with access to that information in a manner consistent with 45 C.F.R. 164.524; 41764
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(2) Implement and maintain appropriate administrative, technical, and physical safeguards to protect the privacy of protected health information in a manner consistent with 45 C.F.R. 164.530(c). 41769
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(B) If a covered entity is a hybrid entity, this section applies only to the health care component of the covered entity. 41773
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Sec. 3798.04. A covered entity shall not do either of the following: 41775
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(A) Use or disclose protected health information without an authorization that is valid under 45 C.F.R. 164.508 and, if applicable, 42 C.F.R. part 2, except when the use or disclosure is required or permitted without such authorization by Subchapter C of Subtitle A of Title 45 of the Code of Federal Regulations and, if applicable, 42 C.F.R. part 2; 41777
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(B) Use or disclose protected health information in a manner that is not consistent with 45 C.F.R. 164.502. 41783
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Sec. 3798.06. Including the circumstances described in 41785
division (A) of section 3798.04 of the Revised Code when a covered 41786
entity is otherwise permitted to disclose protected health 41787
information without an authorization that is valid under 45 C.F.R. 41788
164.508, a covered entity shall not disclose protected health 41789
information to a health information exchange without an 41790
authorization described in division (A) of section 3798.04 of the 41791
Revised Code unless all of the following are true: 41792

(A) The disclosure is to an approved health information 41793
exchange. 41794

(B) The covered entity is a party to a valid participation 41795
agreement with the approved health information exchange that meets 41796
the requirements of rules adopted under section 3798.16 of the 41797
Revised Code. 41798

(C) The disclosure is consistent with all procedures 41799
established by the approved health information exchange. 41800

(D) Prior to the disclosure, the covered entity furnishes to 41801
the individual or individual's personal representative a written 41802
notice that complies with rules adopted under division (A)(3) of 41803
section 3798.16 of the Revised Code. 41804

(E) The covered entity restricts disclosure consistent with 41805
other federal law, if any, governing the disclosure. 41806

(F) The covered entity restricts disclosure of protected 41807
health information concerning a minor relating to health care 41808
delivered to the minor in a manner that complies with laws of this 41809
state pertaining to the circumstances under which a minor may 41810
consent to the minor's own receipt of health care or make medical 41811
decisions on the minor's own behalf, including sections 2907.29, 41812
3709.241, 3719.012, 5120.172, and 5122.04 of the Revised Code, 41813
unless the minor authorizes the disclosure. 41814

(G) The covered entity restricts disclosure in a manner that 41815
is consistent with a written request from the individual or the 41816
individual's personal representative to restrict disclosure of all 41817
of the individual's protected health information. 41818

(H) The covered entity restricts disclosure in a manner that 41819
is consistent with a written request from the individual or the 41820
individual's personal representative concerning specific 41821
categories of protected health information to the extent that 41822
rules adopted pursuant to section 3798.16 of the Revised Code 41823
require the covered entity to comply with such a request. 41824

Sec. 3798.08. A covered entity that accesses or discloses 41825
protected health information in a manner that complies with 41826
section 3798.03 of the Revised Code and is not in violation of 41827
section 3798.04 or 3798.06 of the Revised Code is not liable in a 41828
civil action and is not subject to criminal prosecution or 41829
professional disciplinary action arising out of or relating to the 41830
access or disclosure. 41831

Sec. 3798.10. (A) Not later than six months after the 41832
effective date of this section, the director of job and family 41833
services, in consultation with the office of health 41834
transformation, shall prescribe by rules adopted in accordance 41835
with Chapter 119. of the Revised Code a standard authorization 41836
form for the use and disclosure of protected health information by 41837
covered entities in this state. The form shall meet all 41838
requirements specified in 45 C.F.R. 164.508 and, where applicable, 41839
42 C.F.R. part 2. 41840

(B) If a form the director prescribes under division (A) of 41841
this section is properly executed by an individual or the 41842
individual's personal representative, it shall be accepted by any 41843
person or governmental entity in this state as valid authorization 41844

for the use or disclosure of the individual's protected health information to the persons or governmental entities specified in the form. 41845
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(C) This section does not preclude a person or governmental entity from accepting as valid authorization for the use or disclosure of protected health information a form other than the form prescribed under division (A) of this section if the other form meets all requirements specified in 45 C.F.R. 164.508 and, if applicable, 42 C.F.R. part 2. 41848
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Sec. 3798.12. As used in this section, "agency" has the same meaning as in section 111.15 of the Revised Code. 41854
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(A) Except as provided in division (B) of this section, any of the following pertaining to the confidentiality, privacy, security, or privileged status of protected health information transacted, maintained in, or accessed through a health information exchange is unenforceable if it conflicts with this chapter: 41856
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(1) A section of the Revised Code that is not in this chapter; 41862
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(2) A rule as defined in section 119.01 of the Revised Code; 41864

(3) An internal management rule as defined in section 111.15 of the Revised Code; 41865
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(4) Guidance issued by an agency; 41867

(5) Orders or regulations of a board of health of a city health district made under section 3709.20 of the Revised Code; 41868
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(6) Orders or regulations of a board of health of a general health district made under section 3709.21 of the Revised Code; 41870
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(7) An ordinance or resolution adopted by a political subdivision; 41872
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<u>(8) A professional code of ethics.</u>	41874
<u>(B) Division (A) of this section does not render</u>	41875
<u>unenforceable or restrict in any manner any of the following:</u>	41876
<u>(1) A provision of the Revised Code that on the effective</u>	41877
<u>date of this section requires a person or governmental entity to</u>	41878
<u>disclose protected health information to a state agency, political</u>	41879
<u>subdivision, or other governmental entity;</u>	41880
<u>(2) The confidential status of proceedings and records within</u>	41881
<u>the scope of a peer review committee of a health care entity as</u>	41882
<u>described in section 2305.252 of the Revised Code;</u>	41883
<u>(3) The confidential status of quality assurance program</u>	41884
<u>activities and quality assurance records as described in section</u>	41885
<u>5122.32 of the Revised Code;</u>	41886
<u>(4) The testimonial privilege established by division (B) of</u>	41887
<u>section 2317.02 of the Revised Code;</u>	41888
<u>(5) An item described in divisions (A)(1) to (8) of this</u>	41889
<u>section that governs any of the following:</u>	41890
<u>(a) The confidentiality, privacy, security, or privileged</u>	41891
<u>status of protected health information in the possession or</u>	41892
<u>custody of an agency;</u>	41893
<u>(b) The process for obtaining from a patient consent to the</u>	41894
<u>provision of health care or consent for participation in medical</u>	41895
<u>or other scientific research;</u>	41896
<u>(c) The process for determining whether an adult has a</u>	41897
<u>physical or mental impairment or an adult's capacity to make</u>	41898
<u>health care decisions for purposes of Chapter 5126. of the Revised</u>	41899
<u>Code;</u>	41900
<u>(d) The process for determining whether a minor has been</u>	41901
<u>emancipated.</u>	41902
<u>(6) When a minor is authorized to consent to the minor's own</u>	41903

receipt of health care or make medical decisions on the minor's 41904
own behalf, including the circumstances described in sections 41905
2907.29, 3709.241, 3719.012, 5120.172, 5122.04, and 5126.043 of 41906
the Revised Code. 41907

Sec. 3798.13. The director of job and family services shall 41908
adopt rules for purposes of specifying the criteria a person who 41909
is mentally or physically disabled and who is under twenty-one 41910
years of age must meet to be considered a minor for purposes of 41911
sections 3798.06 and 3798.12 of the Revised Code. 41912

Sec. 3798.14. The director of job and family services, in 41913
consultation with the office of health transformation, shall adopt 41914
rules in accordance with Chapter 119. of the Revised Code for the 41915
purpose of establishing standards the director must use to approve 41916
regional and statewide health information exchanges operating in 41917
this state. The rules may include standards and procedures to be 41918
followed by a health information exchange regarding the following: 41919

(A) Satisfaction of certification standards for health 41920
information exchanges established by federal statutes or 41921
regulations; 41922

(B) Adherence to nationally recognized standards for 41923
interoperability; 41924

(C) Access to and use and disclosure of protected health 41925
information maintained by or on an approved health information 41926
exchange; 41927

(D) Demonstration of adequate financial resources to sustain 41928
continued operations in compliance with the rules adopted under 41929
this section; 41930

(E) Participation in outreach activities for individuals and 41931
covered entities; 41932

<u>(F) Conduct of operations in a transparent manner to promote consumer confidence;</u>	41933
	41934
<u>(G) Implementation of security breach notification procedures.</u>	41935
	41936
<u>Sec. 3798.15. (A) The director of job and family services, in consultation with the office of health transformation, shall adopt rules in accordance with Chapter 119. of the Revised Code for the purpose of establishing processes for all of the following:</u>	41937
	41938
	41939
	41940
	41941
<u>(1) A health information exchange to apply to the director for approval to operate as an approved health information exchange in this state and, at times specified by the director, reapproval of such status;</u>	41942
	41943
	41944
	41945
<u>(2) The director to investigate and resolve concerns and complaints submitted to the director regarding an approved health information exchange;</u>	41946
	41947
	41948
<u>(3) A health information exchange to apply for reconsideration of a decision the director makes under a process established under division (A)(1) or (2) of this section;</u>	41949
	41950
	41951
<u>(4) Covered entities and approved health information exchanges to enter into participation agreements and enforce the terms of such agreements.</u>	41952
	41953
	41954
<u>(B) Any decision the director makes in relation to a process established pursuant to rules adopted under division (A) of this section is not subject to appeal under Chapter 119. or any other provision of the Revised Code.</u>	41955
	41956
	41957
	41958
<u>Sec. 3798.16. (A) The director of job and family services, in consultation with the office of health transformation, shall adopt rules in accordance with Chapter 119. of the Revised Code for the</u>	41959
	41960
	41961

purpose of specifying the content of agreements governing covered 41962
entities' participation in approved health information exchanges. 41963
At a minimum, the rules shall require the content of such 41964
participation agreements to include all of the following: 41965

(1) Procedures for a covered entity to disclose an 41966
individual's protected health information to an approved health 41967
information exchange; 41968

(2) Procedures for a covered entity to access an individual's 41969
protected health information from an approved health information 41970
exchange; 41971

(3) Subject to division (B) of this section, a written notice 41972
to be provided by a covered entity to an individual or the 41973
individual's personal representative prior to the covered entity's 41974
disclosure of the individual's protected health information to an 41975
approved health information exchange; 41976

(4) Documentation the covered entity must use to verify that 41977
a notice described in division (A)(3) of this section has been 41978
provided by the covered entity to an individual or the 41979
individual's personal representative prior to the disclosure of 41980
the individual's protected health information to an approved 41981
health information exchange; 41982

(5) Procedures for an individual or the individual's personal 41983
representative to submit to the covered entity a written request 41984
to place restrictions on the covered entity's disclosure of 41985
protected health information to the approved health information 41986
exchange; 41987

(6) The standards a covered entity must use to determine 41988
whether, and to what extent, to comply with a written request 41989
described in division (A)(5) of this section; 41990

(7) The purposes for which a covered entity may access and 41991

use protected health information from the approved health information exchange. 41992
41993

(B) With respect to the written notice described in division (A)(3) of this section, the rules may specify that the notice can be incorporated into the covered entity's notice of privacy practices required by 45 C.F.R. 164.520 and shall specify that the notice include the following statements: 41994
41995
41996
41997
41998

(1) The individual's protected health information will be disclosed to the approved health information exchange to facilitate the provision of health care to the individual. 41999
42000
42001

(2) The approved health information exchange maintains appropriate safeguards to protect the privacy and security of protected health information. 42002
42003
42004

(3) Only authorized individuals may access and use protected health information from the approved health information exchange. 42005
42006

(4) The individual or the individual's personal representative has the right to request in writing that the covered entity do either or both of the following: 42007
42008
42009

(a) Not disclose any of the individual's protected health information to the approved health information exchange; 42010
42011

(b) Not disclose specific categories of the individual's protected health information to the approved health information exchange. 42012
42013
42014

(5) Any restrictions on the disclosure of protected health information an individual requests as described in either division (B)(4)(a) or (b) of this section may result in a health care provider not having access to information that is necessary for the provider to render appropriate care to the individual. 42015
42016
42017
42018
42019

(6) Any restrictions on the disclosure of protected health information an individual requests as described in division 42020
42021

(B)(4)(a) of this section must be honored by the covered entity. 42022

(7) Any restrictions on the disclosure of protected health 42023

information an individual requests as described in division 42024

(B)(4)(b) of this section must be honored if the restriction is 42025

consistent with rules adopted under this chapter. 42026

Sec. 3905.36. (A) Every insured association, company, 42027
corporation, or other person that enters, directly or indirectly, 42028
into any independent procurement or direct placement agreement 42029
with any insurance company, association, individual, firm, 42030
underwriter, or Lloyd's, not authorized to do business in this 42031
state, whereby the insured shall procure, continue, or renew 42032
contracts of insurance with such unauthorized insurance company, 42033
association, individual, firm, underwriter, or Lloyd's, for which 42034
insurance there is a gross premium, shall file the details of the 42035
transaction annually, on or before the thirty-first day of March, 42036
and shall at the same time pay to the treasurer of state, or the 42037
treasurer's designee, a tax of five per cent of such gross 42038
premium, after a deduction for return premium, if any, as 42039
calculated in the prescribed format or in compliance with any 42040
requirements of the compact entered into by the superintendent 42041
pursuant to division (D) of section 3905.33 of the Revised Code. 42042
An insurer may submit the required details of the transaction and 42043
remit the tax payment on behalf of an insured. 42044

All taxes collected under this section shall be paid into the 42045
general revenue fund. If the tax is not paid when due, the tax 42046
shall be increased by a penalty of twenty-five per cent. An 42047
interest charge computed as set forth in section 5725.221 of the 42048
Revised Code shall be made on the entire sum of the tax plus 42049
penalty, which interest shall be computed from the date the tax is 42050
due until it is paid. For purposes of this section, payment is 42051
considered made when it is received by the treasurer or the 42052

treasurer's designee, irrespective of any United States postal 42053
service marking or other stamp or mark indicating the date on 42054
which the payment may have been mailed. 42055

The superintendent of insurance, in the superintendent's sole 42056
discretion, may waive the twenty-five per cent penalty and 42057
interest charge thereon for a first-time, inadvertent nonpayment 42058
of the tax when due if the nonpayment is reported immediately upon 42059
discovery and the outstanding tax is thereafter immediately paid 42060
to the superintendent. 42061

(B) Each person licensed under section 3905.30 of the Revised 42062
Code shall pay to the treasurer of state or the treasurer's 42063
designee, on or before the thirty-first day of March of each year, 42064
five per cent of the balance of the gross premiums charged for 42065
insurance placed or procured under the license after a deduction 42066
for return premiums in the prescribed format or in compliance with 42067
any requirements of the compact entered into by the superintendent 42068
pursuant to division (D) of section 3905.33 of the Revised Code. 42069
The tax shall be collected from the insured by the surplus lines 42070
broker who placed or procured the policy of insurance at the time 42071
the policy is delivered to the insured. No license issued under 42072
section 3905.30 of the Revised Code shall be renewed until payment 42073
is made. If the tax is not paid when due, the tax shall be 42074
increased by a penalty of twenty-five per cent. An interest charge 42075
computed as set forth in section 5725.221 of the Revised Code 42076
shall be made on the entire sum of the tax plus penalty, which 42077
interest shall be computed from the date the tax is due until it 42078
is paid. For purposes of this section, payment is considered made 42079
when it is received by the treasurer or the treasurer's designee, 42080
irrespective of any United States postal service marking or other 42081
stamp or mark indicating the date on which the payment may have 42082
been mailed. 42083

The superintendent, in the superintendent's sole discretion, 42084

may waive the twenty-five per cent penalty and interest charge 42085
thereon for a first-time, inadvertent nonpayment of the tax when 42086
due if the nonpayment is reported immediately upon discovery and 42087
the outstanding tax is thereafter immediately paid to the 42088
superintendent. 42089

(C) This section does not apply to: 42090

(1) An insured otherwise exempt from the payment of premium 42091
or franchise taxes under state or federal law; 42092

(2) Attorneys-at-law acting on behalf of their clients in the 42093
adjustment of claims or losses; 42094

(3) Transactions involving policies issued by a captive 42095
insurer. For this purpose, a "captive insurer" means any of the 42096
following: 42097

(a) An insurer owned by one or more individuals or 42098
organizations, whose exclusive purpose is to insure risks of one 42099
or more of the parent organizations or individual owners and risks 42100
of one or more affiliates of the parent organizations or 42101
individual owners; 42102

(b) In the case of groups and associations, insurers owned by 42103
the group or association whose exclusive purpose is to insure 42104
risks of members of the group or association and affiliates of the 42105
members; 42106

(c) Other types of insurers, licensed and operated in 42107
accordance with the captive insurance laws of their jurisdictions 42108
of domicile and operated in a manner so as to self-insure risks of 42109
their owners and insureds. 42110

(4) Professional or medical liability insurance procured by a 42111
hospital organized under Chapter 3701. of the Revised Code; 42112

(5) Insurance with an initial policy period of more than 42113
three years and that is procured to cover known events related to 42114

environmental remediation that occurred prior to the effective 42115
date of that insurance; 42116

(6) Insurance procured on behalf of an entity that 42117
manufactures, packages, and sells, as more than fifty per cent of 42118
the entity's business, pharmaceutical products for human use where 42119
the production, packaging, and sale of such products are subject 42120
to regulation by an agency of the United States; 42121

(7) A political subdivision or any combination or consortium 42122
of two or more political subdivisions. 42123

(D) As used in this section: 42124

(1) "Political subdivision" means any county; municipal 42125
corporation; township; township police district; township fire 42126
district; joint fire district; joint ambulance district; joint 42127
emergency medical services district; fire and ambulance district; 42128
joint recreation district; township waste disposal district; 42129
township road district; community college district; technical 42130
college district; detention facility district; a district 42131
organized under section 2151.65 of the Revised Code; a combined 42132
district organized under sections 2151.65 and 2152.41 of the 42133
Revised Code; a joint-county alcohol, drug addiction, and mental 42134
health service district; a drainage improvement district created 42135
under section 6131.52 of the Revised Code; a union cemetery 42136
district; a county school financing district; a city, local, 42137
exempted village, cooperative education, or joint vocational 42138
school district; or a regional student education district created 42139
under section 3313.83 of the Revised Code, any public division, 42140
district, commission, authority, department, board, officer, or 42141
institution of any one or more of those political subdivisions, 42142
that is entirely or substantially supported by public tax moneys. 42143

(2) "Municipal corporation" means all municipal corporations, 42144
including those that have adopted a charter under Article XVIII, 42145

Ohio Constitution.	42146
Sec. 4104.01. As used in sections 4104.01 to 4104.20 and	42147
section 4104.99 of the Revised Code:	42148
(A) "Board of building standards" or "board" means the board	42149
established by section 3781.07 of the Revised Code.	42150
(B) "Superintendent" means the superintendent of labor	42151
<u>industrial compliance</u> created by section 121.04 of the Revised	42152
Code.	42153
(C) "Boiler" means a closed vessel in which water is heated,	42154
steam is generated, steam is superheated, or any combination	42155
thereof, under pressure or vacuum for use externally to itself by	42156
the direct application of heat from the combustion of fuels, or	42157
from electricity or nuclear energy. "Boiler" includes fired units	42158
for heating or vaporizing liquids other than water where these	42159
units are separate from processing systems and are complete within	42160
themselves.	42161
(D) "Power boiler" means a boiler in which steam or other	42162
vapor (to be used externally to itself) is generated at a pressure	42163
of more than fifteen psig.	42164
(E) "High pressure, high temperature water boiler" means a	42165
water heating boiler operating at pressures exceeding one hundred	42166
sixty psig or temperatures exceeding two hundred fifty degrees	42167
Fahrenheit.	42168
(F) "Low pressure boiler" means a steam boiler operating at	42169
pressures not exceeding fifteen psig, or a hot water heating	42170
boiler operating at pressures not exceeding one hundred sixty psig	42171
or temperatures not exceeding two hundred fifty degrees	42172
Fahrenheit.	42173
(G) "Pressure vessel" means a container for the containment	42174
of pressure, either internal or external. This pressure may be	42175

obtained from an external source or by the application of heat 42176
from a direct or indirect source or any combination thereof. 42177

(H) "Process boiler" means a boiler to which all of the 42178
following apply: 42179

(1) The steam in the boiler is either generated or 42180
superheated, or both, under pressure or vacuum for use external to 42181
itself. 42182

(2) The source of heat for the boiler is in part or in whole 42183
from a process other than the boiler itself. 42184

(3) The boiler is part of a continuous processing unit, such 42185
as used in chemical manufacture or petroleum refining, other than 42186
a steam-generated process unit. 42187

(I) "Stationary steam engine" means an engine or turbine in 42188
which the mechanical force arising from the elasticity and 42189
expansion action of steam or from its property of rapid 42190
condensation or from a combination of the two is made available as 42191
a motive power. 42192

Sec. 4104.02. The board of building standards shall: 42193

(A) Formulate rules for the construction, installation, 42194
repair, conservation of energy, and operation of boilers and the 42195
construction and repair of pressure vessels and for ascertaining 42196
the safe working pressures to be carried on such boilers and 42197
pressure vessels and the qualification of inspectors of boilers 42198
and pressure vessels; 42199

(B) Prescribe tests, if it is considered necessary, to 42200
ascertain the qualities of materials used in the construction of 42201
boilers and pressure vessels; 42202

(C) Adopt rules regulating the construction and sizes of 42203
safety valves for boilers and pressure vessels of different sizes 42204
and pressures, for the construction, use, and location of fusible 42205

plugs, appliances for indicating the pressure of steam and level 42206
of water in the boiler or pressure vessels, and such other 42207
appliances as the board considers necessary to safety in operating 42208
boilers; 42209

(D) Establish reasonable fees for the performance of reviews, 42210
surveys, or audits of manufacturer's facilities by the division of 42211
~~labor~~ industrial compliance for certification by the American 42212
society of mechanical engineers and the national board of boiler 42213
and pressure vessel inspectors; 42214

(E) The definitions and rules adopted by the board for the 42215
construction, installation, repair, conservation of energy, and 42216
operation of boilers and the construction and repair of pressure 42217
vessels and for ascertaining the safe working pressures to be used 42218
on such boilers and pressure vessels shall be based upon and 42219
follow generally accepted engineering standards, formulae, and 42220
practices established and pertaining to boilers and pressure 42221
vessel construction, operation, and safety, and the board may, for 42222
this purpose, adopt existing published standards as well as 42223
amendments thereto subsequently published by the same authority. 42224

When a person desires to manufacture a special type of boiler 42225
or pressure vessel, the design of which is not covered by the 42226
rules of the board, the person shall submit drawings and 42227
specifications of such boiler or pressure vessel to the board for 42228
investigation, after which the board may permit its installation. 42229

The provisions of sections 119.03 and 119.11 of the Revised 42230
Code in particular, and the applicable provisions of Chapter 119. 42231
of the Revised Code in general, shall govern the proceedings of 42232
the board of building standards in adopting, amending, or 42233
rescinding rules pursuant to this section. 42234

Sec. 4104.06. (A) The inspection of boilers and their 42235
appurtenances and pressure vessels shall be made by the inspectors 42236

mentioned in sections 4104.07 to 4104.20 of the Revised Code. The 42237
superintendent of ~~labor~~ industrial compliance shall administer and 42238
enforce such sections and rules adopted by the board of building 42239
standards pursuant to section 4104.02 of the Revised Code. 42240

(B) The superintendent shall adopt, amend, and repeal rules 42241
exclusively for the issuance, renewal, suspension, and revocation 42242
of certificates of competency and certificates of operation, for 42243
conducting hearings in accordance with Chapter 119. of the Revised 42244
Code related to these actions, and for the inspection of boilers 42245
and their appurtenances, and pressure vessels. 42246

(C) Notwithstanding division (B) of this section, the 42247
superintendent shall not adopt rules relating to construction, 42248
maintenance, or repair of boilers and their appurtenances, or 42249
repair of pressure vessels. 42250

(D) The superintendent and each general inspector may enter 42251
any premises and any building or room at all reasonable hours to 42252
perform an examination or inspection. 42253

Sec. 4104.07. (A) An application for examination as an 42254
inspector of boilers and pressure vessels shall be in writing, 42255
accompanied by a fee of one hundred fifty dollars, upon a blank to 42256
be furnished by the superintendent of ~~labor~~ industrial compliance. 42257
Any moneys collected under this section shall be paid into the 42258
state treasury to the credit of the ~~labor~~ industrial compliance 42259
operating fund created in section 121.084 of the Revised Code. 42260

(B) The superintendent shall determine if an applicant meets 42261
all the requirements for examination in accordance with rules 42262
adopted by the board of building standards under section 4104.02 42263
of the Revised Code. An application shall be rejected which 42264
contains any willful falsification, or untruthful statements. 42265

(C) An applicant shall be examined by the superintendent, by 42266

a written examination, prescribed by the board, dealing with the 42267
construction, installation, operation, maintenance, and repair of 42268
boilers and pressure vessels and their appurtenances, and the 42269
applicant shall be accepted or rejected on the merits of the 42270
applicant's application and examination. 42271

(D) Upon a favorable report by the superintendent of the 42272
result of an examination, the superintendent shall immediately 42273
issue to the successful applicant a certificate of competency to 42274
that effect. 42275

Sec. 4104.08. (A) The director of commerce may appoint from 42276
the holders of certificates of competency provided for in section 42277
4104.07 of the Revised Code, general inspectors of boilers and 42278
pressure vessels. 42279

(B) Any company authorized to insure boilers and pressure 42280
vessels against explosion in this state may designate from holders 42281
of certificates of competency issued by the superintendent of 42282
~~labor~~ industrial compliance, or holders of certificates of 42283
competency or commissions issued by other states or nations whose 42284
examinations for certificates or commissions have been approved by 42285
the board of building standards, persons to inspect and stamp 42286
boilers and pressure vessels covered by the company's policies, 42287
and the superintendent shall issue to such persons commissions 42288
authorizing them to act as special inspectors. Special inspectors 42289
shall be compensated by the company designating them. 42290

(C) The director shall establish an annual fee to be charged 42291
by the superintendent for each certificate of competency or 42292
commission the superintendent issues. 42293

(D) The superintendent shall issue to each general or special 42294
inspector a commission to the effect that the holder thereof is 42295
authorized to inspect boilers and pressure vessels in this state. 42296

(E) No person shall be authorized to act as a general 42297
inspector or a special inspector who is directly or indirectly 42298
interested in the manufacture or sale of boilers or pressure 42299
vessels. 42300

Sec. 4104.09. The certificate of competency issued under 42301
section 4104.07 of the Revised Code or the commission provided for 42302
in section 4104.08 of the Revised Code may be revoked by the 42303
superintendent of ~~labor~~ industrial compliance for the incompetence 42304
or untrustworthiness of the holder thereof, or for willful 42305
falsification of any matter or statement contained in the holder's 42306
application or in a report of any inspection in accordance with 42307
Chapter 119. of the Revised Code. If a certificate or commission 42308
is lost or destroyed, a new certificate or commission shall be 42309
issued in its place without another examination. 42310
42311

Sec. 4104.10. All unfired pressure vessels, except unfired 42312
pressure vessels exempt under section 4104.04 of the Revised Code, 42313
shall be thoroughly inspected during fabrication and upon 42314
completion and shall not be operated until a copy of the 42315
manufacturers' data report, properly executed and signed by the 42316
inspector is filed in the office of the superintendent of ~~labor~~ 42317
industrial compliance. All unfired pressure vessels shall conform 42318
in every detail with applicable rules adopted by the board of 42319
building standards pursuant to section 4104.02 of the Revised 42320
Code. 42321

Sec. 4104.101. (A) No person shall install or make major 42322
repairs or modifications to any boiler without first registering 42323
to do so with the division of ~~labor~~ industrial compliance. 42324

(B) No person shall make any installation or major repair or 42325
modification of any boiler without first obtaining a permit to do 42326

so from the division. The permit application form shall provide 42327
the name and address of the owner, location of the boiler, and 42328
type of repair or modification that will be made. The application 42329
permit fee shall be one hundred dollars. 42330

(C) The superintendent of ~~labor~~ industrial compliance shall 42331
require annual registration of all contractors who install, make 42332
major repairs to, or modify any boiler. The board of building 42333
standards shall establish a reasonable fee to cover the cost of 42334
processing registrations. 42335

Sec. 4104.12. All boilers, except boilers mentioned in 42336
section 4104.04 of the Revised Code, shall be inspected when 42337
installed and shall not be operated until an appropriate 42338
certificate of operation has been issued by the superintendent of 42339
~~labor~~ industrial compliance. The certificate of operation required 42340
by this section shall not be issued for any boiler which has not 42341
been thoroughly inspected during construction and upon completion, 42342
by either a general or special inspector, and which does not 42343
conform in every detail with the rules adopted by the board of 42344
building standards and unless, upon completion, such boiler is 42345
distinctly stamped under such rules by such inspector. 42346

Sec. 4104.15. (A) All certificates of inspection for boilers, 42347
issued prior to October 15, 1965, are valid and effective for the 42348
period set forth in such certificates unless sooner withdrawn by 42349
the superintendent of ~~labor~~ industrial compliance. The owner or 42350
user of any such boiler shall obtain an appropriate certificate of 42351
operation for such boiler, and shall not operate such boiler, or 42352
permit it to be operated unless a certificate of operation has 42353
been obtained in accordance with section 4104.17 of the Revised 42354
Code. 42355

(B) If, upon making the internal and external inspection 42356

required under sections 4104.11, 4104.12, and 4104.13 of the Revised Code, the inspector finds the boiler to be in safe working order, with the fittings necessary to safety, and properly set up, upon the inspector's report to the superintendent, the superintendent shall issue to the owner or user thereof, or renew, upon application and upon compliance with sections 4104.17 and 4104.18 of the Revised Code, a certificate of operation which shall state the maximum pressure at which the boiler may be operated, as ascertained by the rules of the board of building standards. Such certificates shall also state the name of the owner or user, the location, size, and number of each boiler, and the date of issuance, and shall be so placed as to be easily read in the engine room or boiler room of the plant where the boiler is located, except that the certificate of operation for a portable boiler shall be kept on the premises and shall be accessible at all times.

(C) If an inspector at any inspection finds that the boiler or pressure vessel is not in safe working condition, or is not provided with the fittings necessary to safety, or if the fittings are improperly arranged, the inspector shall immediately notify the owner or user and person in charge of the boiler and shall report the same to the superintendent who may revoke, suspend, or deny the certificate of operation and not renew the same until the boiler or pressure vessel and its fittings are put in condition to insure safety of operation, and the owner or user shall not operate the boiler or pressure vessel, or permit it to be operated until such certificate has been granted or restored.

(D) If the superintendent or a general boiler inspector finds that a pressure vessel or boiler or a part thereof poses an explosion hazard that reasonably can be regarded as posing an imminent danger of death or serious physical harm to persons, the superintendent or the general boiler inspector shall seal the

pressure vessel or boiler and order, in writing, the operator or 42389
owner of the pressure vessel or boiler to immediately cease the 42390
pressure vessel's or boiler's operation. The order shall be 42391
effective until the nonconformities are eliminated, corrected, or 42392
otherwise remedied, or for a period of seventy-two hours from the 42393
time of issuance, whichever occurs first. During the 42394
seventy-two-hour period, the superintendent may request that the 42395
prosecuting attorney or city attorney of Franklin county or of the 42396
county in which the pressure vessel or boiler is located obtain an 42397
injunction restraining the operator or owner of the pressure 42398
vessel or boiler from continuing its operation after the 42399
seventy-two-hour period expires until the nonconformities are 42400
eliminated, corrected, or otherwise remedied. 42401

(E) Each boiler which has been inspected shall be assigned a 42402
number by the superintendent, which number shall be stamped on a 42403
nonferrous metal tag affixed to the boiler or its fittings by seal 42404
or otherwise. No person except an inspector shall deface or remove 42405
any such number or tag. 42406

(F) If the owner or user of any pressure vessel or boiler 42407
disagrees with the inspector as to the necessity for shutting down 42408
a pressure vessel or boiler or for making repairs or alterations 42409
in it, or taking any other measures for safety that are requested 42410
by an inspector, the owner or user may appeal from the decision of 42411
the inspector to the superintendent, who may, after such other 42412
inspection by a general inspector or special inspector as the 42413
superintendent deems necessary, decide the issue. 42414

(G) Neither sections 4104.01 to 4104.20 of the Revised Code, 42415
nor an inspection or report by any inspector, shall relieve the 42416
owner or user of a pressure vessel or boiler of the duty of using 42417
due care in the inspection, operation, and repair of the pressure 42418
vessel or boiler or of any liability for damages for failure to 42419
inspect, repair, or operate the pressure vessel or boiler safely. 42420

Sec. 4104.16. The owner or user of any boiler required by 42421
sections 4104.01 to 4104.20 of the Revised Code, to be inspected, 42422
shall immediately notify the superintendent of ~~labor~~ industrial 42423
compliance in case a defect affecting the safety of the boiler is 42424
discovered. 42425

The owner or user of any stationary boiler required by such 42426
sections to be inspected, who moves the same, shall report to the 42427
superintendent the new location of the boiler. Such boiler shall 42428
be inspected before it is again operated. 42429

Sec. 4104.17. Certificates of operation issued for boilers 42430
subject to inspection under Chapter 4104. of the Revised Code 42431
shall be issued and renewed in accordance with and at dates 42432
prescribed by rules and regulations adopted by the superintendent 42433
of ~~labor~~ industrial compliance. 42434

Sec. 4104.18. (A) The owner or user of a boiler required 42435
under section 4104.12 of the Revised Code to be inspected upon 42436
installation, and the owner or user of a boiler for which a 42437
certificate of inspection has been issued which is replaced with 42438
an appropriate certificate of operation, shall pay to the 42439
superintendent of ~~labor~~ industrial compliance a fee in the amount 42440
of fifty dollars for boilers subject to annual inspections under 42441
section 4104.11 of the Revised Code, one hundred dollars for 42442
boilers subject to biennial inspection under section 4104.13 of 42443
the Revised Code, one hundred fifty dollars for boilers subject to 42444
triennial inspection under section 4104.11 of the Revised Code, or 42445
two hundred fifty dollars for boilers subject to quinquennial 42446
inspection under section 4104.13 of the Revised Code. 42447

(B) The fee for complete inspection during construction by a 42448
general inspector on boilers and pressure vessels manufactured 42449
within the state shall be thirty-five dollars per hour. Boiler and 42450

pressure vessel manufacturers other than those located in the 42451
state may secure inspection by a general inspector on work during 42452
construction, upon application to the superintendent, and upon 42453
payment of a fee of thirty-five dollars per hour, plus the 42454
necessary traveling and hotel expenses incurred by the inspector. 42455

(C) The application fee for applicants for steam engineer, 42456
high pressure boiler operator, or low pressure boiler operator 42457
licenses is seventy-five dollars. The fee for each original or 42458
renewal steam engineer, high pressure boiler operator, or low 42459
pressure boiler operator license is fifty dollars. 42460

(D) The director of commerce, subject to the approval of the 42461
controlling board, may establish fees in excess of the fees 42462
provided in divisions (A), (B), and (C) of this section. Any 42463
moneys collected under this section shall be paid into the state 42464
treasury to the credit of the ~~labor~~ industrial compliance 42465
operating fund created in section 121.084 of the Revised Code. 42466

(E) Any person who fails to pay an invoiced renewal fee or an 42467
invoiced inspection fee required for any inspection conducted by 42468
the division of ~~labor~~ industrial compliance pursuant to this 42469
chapter within forty-five days of the invoice date shall pay a 42470
late payment fee equal to twenty-five per cent of the invoiced 42471
fee. 42472

(F) In addition to the fees assessed in divisions (A) and (B) 42473
of this section, the board of building standards shall assess the 42474
owner or user a fee of three dollars and twenty-five cents for 42475
each certificate of operation or renewal thereof issued under 42476
division (A) of this section and for each inspection conducted 42477
under division (B) of this section. The board shall adopt rules, 42478
in accordance with Chapter 119. of the Revised Code, specifying 42479
the manner by which the superintendent shall collect and remit to 42480
the board the fees assessed under this division and requiring that 42481
remittance of the fees be made at least quarterly. 42482

Sec. 4104.19. (A) Any person seeking a license to operate as 42483
a steam engineer, high pressure boiler operator, or low pressure 42484
boiler operator shall file a written application with the 42485
superintendent of ~~labor~~ industrial compliance on a form prescribed 42486
by the superintendent with the appropriate application fee as set 42487
forth in section 4104.18 of the Revised Code. The application 42488
shall contain information satisfactory to the superintendent to 42489
demonstrate that the applicant meets the requirements of division 42490
(B) of this section. The application shall be filed with the 42491
superintendent not more than sixty days and not less than thirty 42492
days before the license examination is offered. 42493

(B) To qualify to take the examination required to obtain a 42494
steam engineer, high pressure boiler operator, or low pressure 42495
boiler operator license, a person shall meet both of the following 42496
requirements: 42497

(1) Be at least eighteen years of age; 42498

(2) Have one year of experience in the operation of steam 42499
engines, high pressure boilers, or low pressure boilers as 42500
applicable to the type of license being sought, or a combination 42501
of experience and education for the type of license sought as 42502
determined to be acceptable by the superintendent. 42503

(C) No applicant shall qualify to take an examination or to 42504
renew a license if the applicant has violated this chapter or if 42505
the applicant has obtained or renewed a license issued under this 42506
chapter by fraud, misrepresentation, or deception. 42507

(D) The superintendent shall issue a license to each 42508
applicant who receives a passing score on the examination, as 42509
determined by the superintendent, for the license for which the 42510
applicant applied. 42511

(E) The superintendent may select and contract with one or 42512

more persons to do all of the following relative to the 42513
examinations for a license to operate as a steam engineer, high 42514
pressure boiler operator, or low pressure boiler operator: 42515

(1) Prepare, administer, score, and maintain the 42516
confidentiality of the examination; 42517

(2) Maintain responsibility for all expenses required to 42518
fulfill division (E)(1) of this section; 42519

(3) Charge each applicant a fee for administering the 42520
examination, in an amount authorized by the superintendent; 42521

(4) Design the examination for each type of license to 42522
determine an applicant's competence to operate the equipment for 42523
which the applicant is seeking licensure. 42524

(F) Each license issued under this chapter expires one year 42525
after the date of issue. Each person holding a valid, unexpired 42526
license may renew the license, without reexamination, by applying 42527
to the superintendent not more than ninety days before the 42528
expiration of the license, and submitting with the application the 42529
renewal fee established in section 4104.18 of the Revised Code. 42530
Upon receipt of the renewal information and fee, the 42531
superintendent shall issue the licensee a certificate of renewal. 42532

(G) The superintendent, in accordance with Chapter 119. of 42533
the Revised Code, may suspend or revoke any license, or may refuse 42534
to issue a license under this chapter upon finding that a licensee 42535
or an applicant for a license has violated or is violating the 42536
requirements of this chapter. 42537

Sec. 4104.21. On receipt of a notice pursuant to section 42538
3123.43 of the Revised Code, the superintendent of ~~labor~~ 42539
industrial compliance shall comply with sections 3123.41 to 42540
3123.50 of the Revised Code and any applicable rules adopted under 42541
section 3123.63 of the Revised Code with respect to a certificate 42542

or license issued pursuant to this chapter. 42543

Sec. 4104.33. There is hereby created the historical boilers 42544
licensing board consisting of seven members, three of whom shall 42545
be appointed by the governor with the advice and consent of the 42546
senate. The governor shall make initial appointments to the board 42547
within ninety days after October 24, 2002. Of the initial members 42548
appointed by the governor, one shall be for a term ending three 42549
years after October 24, 2002, one shall be for a term ending four 42550
years after October 24, 2002, and one shall be for a term ending 42551
five years after October 24, 2002. Thereafter, terms of office 42552
shall be for five years, each term ending on the same day of the 42553
same month of the year as did the term that it succeeds. Of the 42554
three members the governor appoints, one member shall be an 42555
employee of the division of boiler inspection in the department of 42556
commerce; one member shall be an independent mechanical engineer 42557
who is not involved in selling or inspecting historical boilers; 42558
and one shall be an active member of an association that 42559
represents managers of fairs or festivals. 42560

Two members of the board shall be appointed by the president 42561
of the senate and two members of the board shall be appointed by 42562
the speaker of the house of representatives. The president and 42563
speaker shall make initial appointments to the board within ninety 42564
days after October 24, 2002. Of the initial members appointed by 42565
the president, one shall be for a term ending four years after 42566
October 24, 2002 and one shall be for a term ending five years 42567
after October 24, 2002. Of the initial members appointed by the 42568
speaker, one shall be for a term ending three years after October 42569
24, 2002 and one shall be for a term ending five years after 42570
October 24, 2002. Thereafter, terms of office shall be for five 42571
years, each term ending on the same day of the same month of the 42572
year as did the term that it succeeds. Of the four members 42573

appointed by the president and speaker, each shall own a 42574
historical boiler and also have at least ten years of experience 42575
in the operation of historical boilers, and each of these four 42576
members shall reside in a different region of the state. 42577

Each member shall hold office from the date of the member's 42578
appointment until the end of the term for which the member was 42579
appointed. Members may be reappointed. Vacancies shall be filled 42580
in the manner provided for initial appointments. Any member 42581
appointed to fill a vacancy occurring prior to the expiration date 42582
of the term for which the member's predecessor was appointed shall 42583
hold office as a member for the remainder of that term. A member 42584
shall continue in office subsequent to the expiration date of the 42585
member's term until the successor takes office or until a period 42586
of sixty days has elapsed, whichever occurs first. 42587

The members of the board, annually, shall elect, by majority 42588
vote, a chairperson from among their members. The board shall meet 42589
at least once annually and at other times at the call of the 42590
chairperson. Board members shall receive their actual and 42591
necessary expenses incurred in the discharge of their duties as 42592
board members. 42593

The superintendent of ~~labor~~ industrial compliance shall 42594
furnish office space, staff, and supplies to the board as the 42595
superintendent determines are necessary for the board to carry out 42596
its official duties under sections 4104.33 to 4104.37 of the 42597
Revised Code. 42598

Sec. 4104.42. (A) The owner of any power piping or process 42599
piping system shall ensure that all of the following are performed 42600
in compliance with applicable sections of the B31 standards 42601
contained in the code for pressure piping, published by the 42602
American society of mechanical engineers: 42603

(1) The design, fabrication, assembly, installation, testing, 42604

examination, and inspection of power and process piping systems;	42605
(2) Qualification of personnel and qualification of welding and brazing procedures;	42606 42607
(3) The implementation of an inspection program.	42608
(B) The owner of a power piping or process piping system shall do both of the following:	42609 42610
(1) Maintain for five years complete records documenting the design, examination, and testing of the piping system that include all of the following:	42611 42612 42613
(a) The specific edition of the code for pressure piping used in the design;	42614 42615
(b) The design assumptions;	42616
(c) The calculations, piping material specifications, and construction documents for the piping;	42617 42618
(d) The records of piping alterations;	42619
(e) The piping examination and inspection records.	42620
(2) Disclose the types and quantities of flammable, combustible, or hazardous materials proposed to be used in the facility to the building and fire code enforcement authorities who have inspection authority to enable those authorities to determine compliance with the rules the board of building standards adopts pursuant to section 3781.10 of the Revised Code and the rules the state fire marshal adopts pursuant to section 3737.82 of the Revised Code.	42621 42622 42623 42624 42625 42626 42627 42628
(C) No person or state agency shall require that the records described in division (B)(1) of this section be submitted to the division of labor <u>industrial compliance</u> in the department of commerce or to a certified building department for approval.	42629 42630 42631 42632
(D) Nothing in this section limits the application of	42633

Chapters 4703. and 4733. of the Revised Code. 42634

Sec. 4104.43. (A)(1) The board of building standards shall 42635
adopt rules establishing requirements for the design, 42636
installation, inspection of and design review procedure for 42637
building services piping. 42638

(2) The board of building standards shall adopt rules 42639
establishing requirements for the design, installation, inspection 42640
of and design review procedure for nonflammable medical gas, 42641
medical oxygen, and medical vacuum piping systems. 42642

(B) A municipal, township, or county building department 42643
certified under division (E) of section 3781.10 of the Revised 42644
Code shall enforce the rules the board adopts pursuant to division 42645
(A)(2) of this section if that building department requests and 42646
obtains special certification to enforce those rules. 42647

(C) In a health district where no municipal, township, or 42648
county building department is specially certified under division 42649
(B) of this section, an employee of the health district shall 42650
enforce the rules adopted pursuant to division (A)(2) of this 42651
section if both of the following conditions are satisfied: 42652

(1) The health district employee requests and obtains special 42653
certification by the board to enforce those rules. 42654

(2) The health district notifies the superintendent of the 42655
division of ~~labor~~ industrial compliance in the department of 42656
commerce that the health district's specially certified employee 42657
shall enforce those rules. 42658

(D) In a jurisdiction where enforcement authority as 42659
described in divisions (B) and (C) of this section does not exist, 42660
the superintendent of ~~labor~~ industrial compliance shall enforce 42661
the rules the board adopts pursuant to division (A)(2) of this 42662
section. 42663

Sec. 4104.44. All welding and brazing of metallic piping 42664
systems shall be performed in accordance with section IX of the 42665
boiler and pressure vessel code, published by the American society 42666
of mechanical engineers. The owner shall maintain, at the job 42667
site, the certified performance qualification records of all 42668
welders and brazers employed at the facility. The owner shall 42669
submit copies of all certified welding and brazing procedure 42670
specifications, procedure qualification records, and performance 42671
qualification records for building services piping for review to 42672
the superintendent of ~~labor~~ industrial compliance in the 42673
department of commerce in accordance with rules the superintendent 42674
adopts. The submission shall be accompanied by the fee the 42675
superintendent establishes. 42676

Sec. 4104.48. (A) No person shall violate sections 4104.41 to 42677
4104.48 of the Revised Code, fail to perform any duty lawfully 42678
enjoined in connection with those sections, or fail to comply with 42679
any order issued by the superintendent of ~~labor~~ industrial 42680
compliance or any judgment or decree issued by any court in 42681
connection with the enforcement of sections 4104.41 to 4104.48 of 42682
the Revised Code. 42683

(B) Every day during which a person violates sections 4104.41 42684
to 4104.48 of the Revised Code, fails to perform any duty lawfully 42685
enjoined in connection with those sections, or fails to comply 42686
with any order issued by the superintendent or any judgment or 42687
decree issued by any court in connection with the enforcement of 42688
sections 4104.41 to 4104.48 of the Revised Code constitutes a 42689
separate offense. 42690

Sec. 4105.01. As used in this chapter: 42691

(A) "Elevator" means a hoisting and lowering apparatus 42692
equipped with a car, cage, or platform which moves on or between 42693

permanent rails or guides and serves two or more fixed landings in 42694
a building or structure to which section 3781.06 of the Revised 42695
Code applies. "Elevator" includes dumb-waiters other than 42696
hand-powered dumb-waiters, escalators, ~~peoplelifts~~ manlifts, 42697
moving walks, of the endless belt type, other lifting or lowering 42698
apparatus permanently installed on or between rails or guides, and 42699
all equipment, machinery, and construction related to any 42700
elevator; but does not include construction hoists and other 42701
similar temporary lifting or lowering apparatuses, ski lifts, 42702
traveling, portable amusement rides or devices that are not 42703
affixed to a permanent foundation, or nonportable amusement rides 42704
or devices that are affixed to a permanent foundation. 42705

(B) "Passenger elevator" means an elevator that is designed 42706
to carry persons to its contract capacity. 42707

(C) "Freight elevator" means an elevator normally used for 42708
carrying freight and on which only the operator and employees in 42709
the pursuit of their duties, by the permission of the employer, 42710
are allowed to ride. 42711

(D) "Gravity elevator" means an elevator utilizing gravity to 42712
move. 42713

(E) "General inspector" means a state inspector examined and 42714
hired to inspect elevators and lifting apparatus for that state. 42715

(F) "Special inspector" means an inspector examined and 42716
commissioned by the superintendent of ~~labor~~ industrial compliance 42717
to inspect elevators and lifting apparatus in the state. 42718

(G) "Inspector" means either a general or special inspector. 42719

Sec. 4105.02. No person may act, either as a general 42720
inspector or as a special inspector, of elevators, unless the 42721
person holds a certificate of competency from the division of 42722
~~labor~~ industrial compliance. 42723

Application for examination as an inspector of elevators 42724
shall be in writing, accompanied by a fee to be established as 42725
provided in section 4105.17 of the Revised Code, and upon a blank 42726
to be furnished by the division, stating the school education of 42727
the applicant, a list of the applicant's employers, the 42728
applicant's period of employment, and the position held with each. 42729
An applicant shall also submit a letter from one or more of the 42730
applicant's previous employers certifying as to the applicant's 42731
character and experience. 42732

Applications shall be rejected which contain any willful 42733
falsification or untruthful statements. An applicant, if the 42734
division considers the applicant's history and experience 42735
sufficient, shall be examined by the superintendent of ~~labor~~ 42736
industrial compliance by a written examination dealing with the 42737
construction, installation, operation, maintenance, and repair of 42738
elevators and their appurtenances, and the applicant shall be 42739
accepted or rejected on the merits of the applicant's application 42740
and examination. 42741

The superintendent shall issue a certificate of competency in 42742
the inspection of elevators to any applicant found competent upon 42743
examination. A rejected applicant shall be entitled, after the 42744
expiration of ninety days and upon payment of an examination fee 42745
to be established as provided in section 4105.17 of the Revised 42746
Code, to another examination. Should an applicant fail to pass the 42747
prescribed examination on second trial, the applicant will not be 42748
permitted to be an applicant for another examination for a period 42749
of one year after the second examination. 42750

Sec. 4105.03. The superintendent of ~~labor~~ industrial 42751
compliance, with the consent of the director of commerce, shall 42752
hire an assistant who has at least ten years of experience in the 42753
construction, installation, maintenance, and repair of elevators 42754

and their appurtenances. 42755

The superintendent, with the consent of the director, and in 42756
compliance with Chapter 124. of the Revised Code, may appoint and 42757
hire general inspectors of elevators from the holders of 42758
certificates of competency. 42759

Sec. 4105.04. From the holders of certificates of competency 42760
in the inspection of elevators, any company that is authorized to 42761
insure elevators in the state, may designate persons to inspect 42762
elevators covered by such company's policies, and the department 42763
of public safety of any city and the clerk of any village may 42764
designate persons to inspect elevators in such city or village. 42765
Such persons shall, upon the payment of a fee to be established as 42766
provided in section 4105.17 of the Revised Code, have issued to 42767
them annually by the division of ~~labor~~ industrial compliance, 42768
commissions to serve as special inspectors of elevators in the 42769
state. 42770

Sec. 4105.05. A commission to serve as a special inspector 42771
may be suspended or revoked by the superintendent of ~~labor~~ 42772
industrial compliance, for the incompetence or untrustworthiness 42773
of the holder thereof, or for the falsification of any matter or 42774
statement contained in the holder's application or in a report of 42775
any inspection. 42776

Sec. 4105.06. If a certificate or commission issued under 42777
sections 4105.02 and 4105.04 of the Revised Code is lost or 42778
destroyed a new one shall be issued in its place by the division 42779
of ~~labor~~ industrial compliance without another examination, upon 42780
the payment of a fee to be established as provided in section 42781
4105.07 of the Revised Code. 42782

Sec. 4105.09. The owner or user of any elevator shall 42783

register, with the division of ~~labor~~ industrial compliance, every 42784
elevator operated by the owner or user, giving the type, capacity, 42785
and description, name of manufacturer, and purpose for which each 42786
is used. Such registration shall be made on a form to be furnished 42787
by the division. 42788

Sec. 4105.11. The inspection of elevators shall be made by 42789
the inspectors authorized in sections 4105.03 and 4105.04 of the 42790
Revised Code, under the supervision of the superintendent of ~~labor~~ 42791
industrial compliance, and the superintendent shall enforce this 42792
chapter and any rules adopted pursuant thereto. 42793

Every inspector shall forward to the superintendent a full 42794
and complete report of each inspection made of any elevator and 42795
shall, on the day the inspection is completed, leave a copy of 42796
such report with the owner or operator of the elevator, or the 42797
owner's or operator's agent or representative. Such report shall 42798
indicate the exact condition of the elevator and shall list any 42799
and all of the provisions of this chapter and any rules adopted 42800
pursuant thereto, with which the elevator does not comply. Before 42801
attempting to enforce, by any remedy, civil or criminal, the 42802
provisions with which the inspected elevator does not comply, the 42803
chief shall issue an adjudication order within the meaning of 42804
Chapter 119. of the Revised Code. 42805

The approval of construction plans, or an application of 42806
specifications under section 4105.16 of the Revised Code is a 42807
license, and the failure to approve such plans or specifications 42808
by the chief within sixty days after they are filed is an 42809
adjudication order denying the issuance of a license. 42810

Every adjudication order shall specify what appliances, site 42811
preparations, additions, repairs, or alterations to any elevators, 42812
plans, materials, assemblages, or procedures are necessary for the 42813
same to comply with this chapter, or any rules adopted pursuant 42814

thereto. Such adjudication order shall be issued pursuant to 42815
Chapter 119. of the Revised Code and shall be effective without 42816
prior hearing, within thirty days after the receipt of such order, 42817
the owner of the elevator specified therein may appeal to the 42818
board of building appeals under section 3781.19 of the Revised 42819
Code. 42820

Notwithstanding the provisions of Chapter 119. of the Revised 42821
Code relating to adjudication hearings, a stenographic or 42822
mechanical record of the testimony and other evidence submitted 42823
before the board of building appeals shall be taken at the expense 42824
of the agency. A party adversely affected by an order issued 42825
following such adjudication hearing may appeal to the court of 42826
common pleas of the county in which the party is a resident or in 42827
which the elevator affected by such order is located. The court in 42828
such case shall not be confined to the record as certified to it 42829
by the agency, but any party may produce additional evidence and 42830
the court shall hear the matter upon such record and such 42831
additional evidence as is introduced by any party. The court shall 42832
not affirm the order of the agency unless the preponderance of the 42833
evidence before it supports the reasonableness and lawfulness of 42834
such order, and of any rules upon which the order of the agency is 42835
based in its application to the facts involved in the appeal. 42836

Failure to comply with the requirements of any order issued 42837
pursuant to this section or the continued operation of any 42838
elevator after it has been sealed pursuant to section 4105.21 of 42839
the Revised Code is hereby declared a public nuisance. 42840

Sec. 4105.12. (A) The superintendent of ~~labor~~ industrial 42841
compliance shall adopt, amend, and repeal rules exclusively for 42842
the issuance, renewal, suspension, and revocation of certificates 42843
of competency and certificates of operation, for the conduct of 42844
hearings related to these actions, and for the inspection of 42845

elevators. 42846

(B) Notwithstanding division (A) of this section, the 42847
superintendent shall not adopt rules relating to construction, 42848
maintenance, and repair of elevators. 42849

Sec. 4105.13. Every elevator shall be constructed, equipped, 42850
maintained, and operated, with respect to the supporting members, 42851
elevator car, shaftways, guides, cables, doors, and gates, safety 42852
stops and mechanism, electrical apparatus and wiring, mechanical 42853
apparatus, counterweights, and all other appurtenances, in 42854
accordance with state laws and rules as are authorized in respect 42855
thereto. Where reasonable safety is obtained without complying to 42856
the literal requirements of such rules as in cases of practical 42857
difficulty or unnecessary hardship, the literal requirements of 42858
such rules shall not be required. The superintendent of ~~labor~~ 42859
industrial compliance may permit the installation of vertical 42860
wheelchair lifts in public buildings to provide for handicapped 42861
accessibility where such lifts do not meet the literal 42862
requirements of the rules adopted by the board of building 42863
standards pursuant to section 4105.011 of the Revised Code, 42864
provided that reasonable safety may be obtained. 42865

Sec. 4105.15. No certificate of operation for any elevator 42866
shall be issued by the director of commerce until such elevator 42867
has been inspected as required by this chapter. Certificates of 42868
operation shall be renewed by the owner or user of the elevator in 42869
accordance with rules adopted by the superintendent of ~~labor~~ 42870
industrial compliance pursuant to section 4105.12 of the Revised 42871
Code. 42872

Sec. 4105.16. Before any new installation of an elevator of 42873
permanent nature is erected or before any existing elevator is 42874
removed to and installed in a different location, an application 42875

of specifications in duplicate shall be submitted to the division 42876
of ~~labor~~ industrial compliance giving such information concerning 42877
the construction, installation, and operation of said elevator as 42878
the division may require on forms to be furnished by the division, 42879
together with complete construction plans in duplicate. In all 42880
cases where any changes or repairs are made which alter its 42881
construction of classification, grade or rated lifting capacity, 42882
except when made pursuant to a report of an inspector, an 42883
application of specifications in duplicate shall be submitted to 42884
the division, containing such information, or approval, except in 42885
those municipal corporations which maintain their own elevator 42886
inspection departments, in which event such specifications shall 42887
be submitted to the elevator department of the municipal 42888
corporation for its approval, and if approved, a permit for the 42889
erection or repair of such elevator shall be issued by the 42890
municipal corporation. Upon approval of such application and 42891
construction plans, the superintendent of ~~labor~~ industrial 42892
compliance shall issue a permit for the erection or repair of such 42893
elevator. No new elevator shall be operated until completion in 42894
accordance with the approved plans and specifications, unless a 42895
temporary permit is granted by the division. 42896

The final inspection, before operation, of a permanent, new 42897
or repaired elevator shall be made by a general inspector or a 42898
special inspector designated by the superintendent. 42899

Sec. 4105.17. (A) The fee for each inspection, or attempted 42900
inspection that, due to no fault of a general inspector or the 42901
division of ~~labor~~ industrial compliance, is not successfully 42902
completed, by a general inspector before the operation of a 42903
permanent new elevator prior to the issuance of a certificate of 42904
operation, before operation of an elevator being put back into 42905
service after a repair or after an adjudication under section 42906
4105.11 of the Revised Code, or as a result of the operation of 42907

section 4105.08 of the Revised Code and is an elevator required to 42908
be inspected under this chapter is one hundred twenty dollars plus 42909
ten dollars for each floor where the elevator stops. The 42910
superintendent of ~~labor~~ industrial compliance may assess an 42911
additional fee of one hundred twenty dollars plus ten dollars for 42912
each floor where an elevator stops for the reinspection of an 42913
elevator when a previous attempt to inspect that elevator has been 42914
unsuccessful through no fault of a general inspector or the 42915
division of ~~labor~~ industrial compliance. 42916

(B) The fee for each inspection, or attempted inspection, 42917
that due to no fault of the general inspector or the division, is 42918
not successfully completed by a general inspector before operation 42919
of a permanent new escalator or moving walk prior to the issuance 42920
of a certificate of operation, before operation of an escalator or 42921
moving walk being put back in service after a repair, or as a 42922
result of the operation of section 4105.08 of the Revised Code is 42923
three hundred dollars. The superintendent may assess an additional 42924
fee of one hundred fifty dollars for the reinspection of an 42925
escalator or moving walk when a previous attempt to inspect that 42926
escalator or moving walk has been unsuccessful through no fault of 42927
the general inspector or the division. 42928

(C) The fee for issuing or renewing a certificate of 42929
operation under section 4105.15 of the Revised Code for an 42930
elevator that is inspected every six months in accordance with 42931
division (A) of section 4105.10 of the Revised Code is two hundred 42932
twenty dollars plus twelve dollars for each floor where the 42933
elevator stops, except where the elevator has been inspected by a 42934
special inspector in accordance with section 4105.07 of the 42935
Revised Code. 42936

(D) The fee for issuing or renewing a certificate of 42937
operation under section 4105.05 of the Revised Code for an 42938
elevator that is inspected every twelve months in accordance with 42939

division (A) of section 4105.10 of the Revised Code is fifty-five 42940
dollars plus ten dollars for each floor where the elevator stops, 42941
except where the elevator has been inspected by a special 42942
inspector in accordance with section 4105.07 of the Revised Code. 42943

(E) The fee for issuing or renewing a certificate of 42944
operation under section 4105.15 of the Revised Code for an 42945
escalator or moving walk is three hundred dollars, except where 42946
the escalator or moving walk has been inspected by a special 42947
inspector in accordance section 4105.07 of the Revised Code. 42948

(F) All other fees to be charged for any examination given or 42949
other service performed by the division pursuant to this chapter 42950
shall be prescribed by the director of commerce. The fees shall be 42951
reasonably related to the costs of such examination or other 42952
service. 42953

(G) The director of commerce, subject to the approval of the 42954
controlling board, may establish fees in excess of the fees 42955
provided in divisions (A), (B), (C), (D), and (E) of this section. 42956
Any moneys collected under this section shall be paid into the 42957
state treasury to the credit of the ~~labor~~ industrial compliance 42958
operating fund created in section 121.084 of the Revised Code. 42959

(H) Any person who fails to pay an inspection fee required 42960
for any inspection conducted by the division pursuant to this 42961
chapter within forty-five days after the inspection is conducted 42962
shall pay a late payment fee equal to twenty-five per cent of the 42963
inspection fee. 42964

(I) In addition to the fees assessed in divisions (A), (B), 42965
(C), (D), and (E) of this section, the board of building standards 42966
shall assess a fee of three dollars and twenty-five cents for each 42967
certificate of operation or renewal thereof issued under divisions 42968
(A), (B), (C), (D), or (E) of this section and for each permit 42969
issued under section 4105.16 of the Revised Code. The board shall 42970

adopt rules, in accordance with Chapter 119. of the Revised Code, 42971
specifying the manner by which the superintendent shall collect 42972
and remit to the board the fees assessed under this division and 42973
requiring that remittance of the fees be made at least quarterly. 42974

(J) For purposes of this section: 42975

(1) "Escalator" means a power driven, inclined, continuous 42976
stairway used for raising or lowering passengers. 42977

(2) "Moving walk" means a passenger carrying device on which 42978
passengers stand or walk, with a passenger carrying surface that 42979
is uninterrupted and remains parallel to its direction of motion. 42980

Sec. 4105.191. Any person owning or operating any elevator 42981
subject to this chapter shall file a written report with the 42982
superintendent of ~~labor~~ industrial compliance within seventy-two 42983
hours after the occurrence of any accident involving such elevator 42984
which results in death or bodily injury to any person. 42985

Sec. 4105.20. No person shall violate any law relative to the 42986
operation, construction, maintenance, and repair of elevators. All 42987
fines collected for violation of this section shall be forwarded 42988
to the superintendent of ~~labor~~ industrial compliance, who shall 42989
pay them into the state treasury to the credit of the ~~labor~~ 42990
industrial compliance operating fund created in section 121.084 of 42991
the Revised Code. 42992

Sec. 4105.21. The superintendent of ~~labor~~ industrial 42993
compliance shall enforce this chapter. If the superintendent or a 42994
general inspector of elevators finds that an elevator or a part 42995
thereof does not afford reasonable safety as required by section 42996
4105.13 of the Revised Code, the superintendent or the general 42997
inspector may seal such elevator and post a notice thereon 42998
prohibiting further use of the elevator until the changes or 42999

alterations set forth in the notice have been made to the 43000
satisfaction of the superintendent or the inspector. The notice 43001
shall contain a statement that operators or passengers are subject 43002
to injury by its continued use, a description of the alteration or 43003
other change necessary to be made in order to secure safety of 43004
operation, date of such notice, name and signature of the 43005
superintendent or inspector issuing the notice. 43006

Sec. 4115.10. (A) No person, firm, corporation, or public 43007
authority that constructs a public improvement with its own 43008
forces, the total overall project cost of which is fairly 43009
estimated to be more than the amounts set forth in division (B) of 43010
section 4115.03 of the Revised Code, adjusted biennially by the 43011
director of commerce pursuant to section 4115.034 of the Revised 43012
Code, as appropriate, shall violate the wage provisions of 43013
sections 4115.03 to 4115.16 of the Revised Code, or suffer, 43014
permit, or require any employee to work for less than the rate of 43015
wages so fixed, or violate the provisions of section 4115.07 of 43016
the Revised Code. Any employee upon any public improvement, except 43017
an employee to whom or on behalf of whom restitution is made 43018
pursuant to division (C) of section 4115.13 of the Revised Code, 43019
who is paid less than the fixed rate of wages applicable thereto 43020
may recover from such person, firm, corporation, or public 43021
authority that constructs a public improvement with its own forces 43022
the difference between the fixed rate of wages and the amount paid 43023
to the employee and in addition thereto a sum equal to twenty-five 43024
per cent of that difference. The person, firm, corporation, or 43025
public authority who fails to pay the rate of wages so fixed also 43026
shall pay a penalty to the director of seventy-five per cent of 43027
the difference between the fixed rate of wages and the amount paid 43028
to the employees on the public improvement. The director shall 43029
deposit all moneys received from penalties paid to the director 43030
pursuant to this section into the ~~labor~~ industrial compliance 43031

operating fund. The director shall use the fund for the 43032
enforcement of sections 4115.03 to 4115.16 of the Revised Code. 43033
The employee may file suit for recovery within ninety days of the 43034
director's determination of a violation of sections 4115.03 to 43035
4115.16 of the Revised Code or is barred from further action under 43036
this division. Where the employee prevails in a suit, the employer 43037
shall pay the costs and reasonable attorney's fees allowed by the 43038
court. 43039

(B) Any employee upon any public improvement who is paid less 43040
than the prevailing rate of wages applicable thereto may file a 43041
complaint in writing with the director upon a form furnished by 43042
the director. The complaint shall include documented evidence to 43043
demonstrate that the employee was paid less than the prevailing 43044
wage in violation of this chapter. Upon receipt of a properly 43045
completed written complaint of any employee paid less than the 43046
prevailing rate of wages applicable, the director shall take an 43047
assignment of a claim in trust for the assigning employee and 43048
bring any legal action necessary to collect the claim. The 43049
employer shall pay the costs and reasonable attorney's fees 43050
allowed by the court if the employer is found in violation of 43051
sections 4115.03 to 4115.16 of the Revised Code. 43052

(C) If after investigation pursuant to section 4115.13 of the 43053
Revised Code, the director determines there is a violation of 43054
sections 4115.03 to 4115.16 of the Revised Code and a period of 43055
sixty days has elapsed from the date of the determination, and if: 43056

(1) No employee has brought suit pursuant to division (A) of 43057
this section; 43058

(2) No employee has requested that the director take an 43059
assignment of a wage claim pursuant to division (B) of this 43060
section. 43061

The director shall bring any legal action necessary to 43062

collect any amounts owed to employees and the director. The 43063
director shall pay over to the affected employees the amounts 43064
collected to which the affected employees are entitled under 43065
division (A) of this section. In any action in which the director 43066
prevails, the employer shall pay the costs and reasonable 43067
attorney's fees allowed by the court. 43068

(D) Where persons are employed and their rate of wages has 43069
been determined as provided in section 4115.04 of the Revised 43070
Code, no person, either for self or any other person, shall 43071
request, demand, or receive, either before or after the person is 43072
engaged, that the person so engaged pay back, return, donate, 43073
contribute, or give any part or all of the person's wages, salary, 43074
or thing of value, to any person, upon the statement, 43075
representation, or understanding that failure to comply with such 43076
request or demand will prevent the procuring or retaining of 43077
employment, and no person shall, directly or indirectly, aid, 43078
request, or authorize any other person to violate this section. 43079
This division does not apply to any agent or representative of a 43080
duly constituted labor organization acting in the collection of 43081
dues or assessments of such organization. 43082

(E) The director shall enforce sections 4115.03 to 4115.16 of 43083
the Revised Code. 43084

(F) For the purpose of supplementing existing resources and 43085
to assist in enforcing division (E) of this section, the director 43086
may contract with a person registered as a public accountant under 43087
Chapter 4701. of the Revised Code to conduct an audit of a person, 43088
firm, corporation, or public authority. 43089

(G) No contractor or subcontractor shall be responsible for 43090
the payment of the penalties provided in division (A) of this 43091
section resulting from a violation of sections 4115.03 to 4115.16 43092
of the Revised Code by its subcontractor, provided that the 43093
contractor or subcontractor has made a good faith effort to ensure 43094

that its subcontractor complied with the requirements of sections 43095
4115.03 to 4115.16 of the Revised Code. 43096

Sec. 4115.101. There is hereby created the prevailing wage 43097
custodial fund, which shall be in the custody of the treasurer of 43098
state but shall not be part of the state treasury. The director of 43099
commerce shall deposit to the fund all money paid by employers to 43100
the director that are held in trust for employees to whom 43101
prevailing wages are due and owing. The director shall make 43102
disbursements from the fund in accordance with this chapter to 43103
employees affected by violations of this chapter. If the director 43104
determines that any funds in the prevailing wage custodial fund 43105
are not returnable to employees as required under this section, 43106
then the director shall certify to the treasurer of state the 43107
amount of the funds that are not returnable. Upon the receipt of a 43108
certification from the director in accordance with this section, 43109
the treasurer of state shall transfer the certified amount of the 43110
funds from the prevailing wage custodial fund to the ~~labor~~ 43111
industrial compliance operating fund. 43112

Sec. 4121.123. (A) There is hereby created the workers' 43113
compensation board of directors nominating committee consisting of 43114
the following: 43115

(1) Three individuals who are members of affiliated employee 43116
organizations of the Ohio chapter of the American federation of 43117
labor-congress of industrial organizations, who are selected by 43118
the Ohio chapter of the American federation of labor-congress of 43119
industrial organizations and who, on account of their previous 43120
vocation, employment, or affiliations, can be classed as 43121
representative of employees who are members of an employee 43122
organization. Terms of office shall be for one year, with each 43123
term ending on the same day of the same month as did the term that 43124
it succeeds. 43125

(2) Two individuals who, on account of their previous 43126
vocation, employment, or affiliations, can be classed as 43127
representative of employees, one of whom shall be an injured 43128
worker with a valid, open, and active workers' compensation claim 43129
and at least one of these two representatives also shall represent 43130
employees who are not members of an employee organization. The 43131
president of the senate and the speaker of the house of 43132
representatives each shall appoint annually one of these members. 43133
The member who is an injured worker shall serve for a full term 43134
even if the member's workers' compensation claim is invalidated, 43135
closed, or inactivated during the member's term. 43136

(3) The chief executive officer, or the equivalent of the 43137
chief executive officer, of the Ohio chamber of commerce, the Ohio 43138
manufacturers' association, the Ohio self-insurers' association, 43139
the Ohio council of retail merchants, the national federation of 43140
independent business, and the Ohio farm bureau; 43141

(4) The director of development; 43142

(5) The president of the Ohio township association and the 43143
president of the Ohio county commissioners association, or, ~~in~~ if 43144
any of the following circumstances apply: 43145

(a) In the event of a vacancy in the either presidency, a 43146
designee appointed by the governing body authorized to appoint the 43147
president. A designee so appointed shall serve on the nominating 43148
committee only until the vacancy in the presidency is filled. 43149

(b) In the event that the president of the Ohio township 43150
association is unavailable, a designee selected by the president; 43151

(c) In the event that the president of the Ohio county 43152
commissioners association is unavailable, a designee selected by 43153
the president. 43154

(B) Each member appointed under divisions (A)(1) and (2) of 43155
this section shall hold office from the date of the member's 43156

appointment until the end of the term for which the member was 43157
appointed. Such members may be reappointed. Vacancies shall be 43158
filled in the manner provided for original appointments. Any such 43159
member appointed to fill a vacancy occurring prior to the 43160
expiration date of the term for which the member's predecessor was 43161
appointed shall hold office as a member for the remainder of that 43162
term. Such a member shall continue in office subsequent to the 43163
expiration date of the member's term until the member's successor 43164
takes office or until a period of sixty days has elapsed, 43165
whichever occurs first. 43166

(C) The nominating committee shall meet at the request of the 43167
governor or as the nominating committee determines appropriate in 43168
order to make recommendations to the governor for the appointment 43169
of members of the bureau of workers' compensation board of 43170
directors under section 4121.12 of the Revised Code. 43171

(D) The director of development shall serve as chairperson of 43172
the nominating committee and have no voting rights on matters 43173
coming before the nominating committee, except that the director 43174
may vote in the event of a tie vote of the nominating committee. 43175
Annually, the nominating committee shall select a secretary from 43176
among its members. The nominating committee may adopt by-laws 43177
governing its proceedings. 43178

(E) Members of the nominating committee shall be paid their 43179
reasonable and necessary expenses pursuant to section 126.31 of 43180
the Revised Code while engaged in the performance of their duties 43181
as members of the nominating committee. 43182

(F) The nominating committee shall: 43183

(1) Review and evaluate possible appointees for the board. In 43184
reviewing and evaluating possible appointees for the board, the 43185
nominating committee may accept comments from, cooperate with, and 43186
request information from any person. 43187

(2) Make recommendations to the governor for the appointment 43188
of members to the board as provided in division (C) of section 43189
4121.12 of the Revised Code. 43190

(G) The nominating committee may make recommendations to the 43191
general assembly concerning changes in legislation that will 43192
assist the nominating committee in the performance of its duties. 43193

Sec. 4121.30. (A) All rules governing the operating procedure 43194
of the bureau of workers' compensation and the industrial 43195
commission shall be adopted in accordance with Chapter 119. of the 43196
Revised Code, except that determinations of the bureau, district 43197
hearing officers, staff hearing officers, and the commission, with 43198
respect to an individual employee's claim to participate in the 43199
state insurance fund are governed only by Chapter 4123. of the 43200
Revised Code. 43201

The administrator of workers' compensation and commission 43202
shall proceed jointly, in accordance with Chapter 119. of the 43203
Revised Code, including a joint hearing, to adopt joint rules 43204
governing the operating procedures of the bureau and commission. 43205
~~The bureau shall publish the joint rules in a single publication.~~ 43206

(B) Upon submission to the bureau or the commission of a 43207
petition containing not less than fifteen hundred signatures of 43208
adult residents of the state, any individual may propose a rule 43209
for adoption, amendment, or rescission by the bureau or the 43210
commission. If, upon investigation, the bureau or commission is 43211
satisfied that the signatures upon the petition are valid, it 43212
shall proceed, in accordance with Chapter 119. of the Revised 43213
Code, to consider adoption, amendment, or rescission of the rule. 43214

(C) The administrator shall ~~publish~~ make available 43215
electronically all rules adopted by the bureau and the commission 43216
~~in a single publication~~ and shall make available in a timely 43217
manner ~~and at cost copies of~~ all rules adopted by the bureau and 43218

the commission that are currently in force. ~~For that purpose, the~~ 43219
~~administrator shall maintain a mailing list of all persons~~ 43220
~~requesting copies of the rules.~~ 43221

(D) The rule-making authority granted to the administrator 43222
under this section does not limit the commission's rule-making 43223
authority relative to its overall adjudicatory policy-making and 43224
management duties under this chapter and Chapters 4123., 4127., 43225
and 4131. of the Revised Code. The administrator shall not 43226
disregard any rule adopted by the commission, provided that the 43227
rule is within the commission's rule-making authority. 43228

Sec. 4123.20. The administrator of workers' compensation 43229
~~shall cause to be printed, in proper form for distribution make~~ 43230
~~available electronically to the public, its classifications,~~ 43231
rates, rules, and rules of procedure, and shall furnish the same 43232
to any person upon ~~application therefor, and the fact that the~~ 43233
~~classifications, rates, rules, and rules of procedure are printed~~ 43234
~~ready for distribution to all who apply for the same is a~~ 43235
~~sufficient publication of the same as required by this chapter~~ 43236
~~request.~~ 43237

Sec. 4163.07. (A)(1) Prior to transporting any high-level 43238
radioactive waste, spent nuclear fuel, transuranic waste, or any 43239
quantity of special nuclear material or by-product material that 43240
meets or exceeds the highway route controlled quantity, within, 43241
into, or through the state, the shipper of the material shall 43242
notify the executive director of the emergency management agency 43243
established under section 5502.22 of the Revised Code of the 43244
shipment. The notice shall be in writing and be sent by certified 43245
mail and shall include the name of the shipper; the name of the 43246
carrier; the type and quantity of the material; the transportation 43247
mode of the shipment; the proposed date and time of shipment of 43248
the material within, into, or through the state; and the starting 43249

point, termination or exit point, scheduled route, and each 43250
alternate route, if any, of the shipment. In order to constitute 43251
effective notification under division (A)(1) of this section, 43252
notification shall be received by the executive director at least 43253
four days prior to shipment within, into, or through the state. 43254

(2) The carrier or shipper of any shipment subject to 43255
division (A)(1) of this section shall immediately notify the 43256
executive director of any change in the date and time of the 43257
shipment or in the route of the shipment within, into, or through 43258
the state. 43259

(B) Upon receipt of a notice of any shipment of material that 43260
is subject to division (A)(1) of this section within, into, or 43261
through the state, the executive director of the emergency 43262
management agency shall immediately notify the director of public 43263
safety, the director of environmental protection, the director of 43264
health, the chairperson of the public utilities commission, and 43265
the county emergency management agency and sheriff of each county 43266
along the proposed route, or any alternate route, of the shipment. 43267

(C) The executive director of the emergency management agency 43268
shall not disclose to any person other than those persons 43269
enumerated in division (B) of this section any information 43270
pertaining to any shipment of special nuclear material or 43271
by-product material prior to the time that the shipment is 43272
completed. 43273

(D) This section does not apply to radioactive materials, 43274
other than by-products, shipped by or for the United States 43275
department of defense and United States department of energy for 43276
military or national defense purposes. Nothing in this section 43277
requires the disclosure of any defense information or restricted 43278
data as defined in the "Atomic Energy Act of 1954," 68 Stat. 919, 43279
42 U.S.C. 2011, as amended. 43280

(E) No person shall transport or cause to be transported 43281
within, into, or through the state any material that is subject to 43282
division (A)(1) of this section without first providing the notice 43283
required in that division. 43284

(F) Whoever violates division (E) of this section, in 43285
addition to any penalty imposed under section 4163.99 of the 43286
Revised Code, is liable for a civil penalty in an amount not to 43287
exceed the following, as applicable: 43288

(1) Twenty-five thousand dollars for a motor carrier, as 43289
defined in section 4923.01 of the Revised Code; 43290

(2) Forty-five thousand dollars for the first cask designated 43291
for transport by rail and thirty thousand dollars for each 43292
additional cask designated for transport by rail that is shipped 43293
by the same person or entity in the same shipment. 43294

The attorney general, upon the request of the executive 43295
director of the emergency management agency, shall bring a civil 43296
action to collect the penalty. Fines collected pursuant to this 43297
section shall be deposited into the state treasury to the credit 43298
of the ~~radioactive waste~~ public utilities transportation safety 43299
fund created in section ~~4905.801~~ 4921.21 of the Revised Code. 43300

Sec. 4169.02. (A) For the purposes of regulating the 43301
construction, maintenance, mechanical operation, and inspection of 43302
passenger tramways that are associated with ski areas and of 43303
registering operators of passenger tramways in this state, there 43304
is hereby established in the division of ~~labor~~ industrial 43305
compliance in the department of commerce a ski tramway board to be 43306
appointed by the governor, with the advice and consent of the 43307
senate. The board shall consist of three members, one of whom 43308
shall be a public member who is an experienced skier and familiar 43309
with ski areas in this state, one of whom shall be a ski area 43310
operator actively engaged in the business of recreational skiing 43311

in this state, and one of whom shall be a professional engineer 43312
who is knowledgeable in the design or operation of passenger 43313
tramways. 43314

Of the initial appointments, one member shall be appointed 43315
for a term of one year, one for a term of two years, and one for a 43316
term of three years. The member appointed to the term beginning on 43317
July 1, 1996, shall be appointed to a term ending on June 30, 43318
1997; the member appointed to a term beginning on July 1, 1997, 43319
shall be appointed to a term ending on June 30, 1999; and the 43320
member appointed to a term beginning on July 1, 1998, shall be 43321
appointed to a term ending on June 30, 2001. Thereafter, each of 43322
the members shall be appointed for a term of six years. Each 43323
member shall hold office from the date of appointment until the 43324
end of the term for which the member was appointed. In the event 43325
of a vacancy, the governor, with the advice and consent of the 43326
senate, shall appoint a successor who shall hold office for the 43327
remainder of the term for which the successor's predecessor was 43328
appointed. A member shall continue in office subsequent to the 43329
expiration date of the member's term until the member's successor 43330
takes office or until a period of sixty days has elapsed, 43331
whichever occurs first. The board shall elect a chairperson from 43332
its members. 43333

The governor may remove any member of the board at any time 43334
for misfeasance, nonfeasance, or malfeasance in office after 43335
giving the member a copy of the charges against the member and an 43336
opportunity to be heard publicly in person or by counsel in the 43337
member's defense. Any such act of removal by the governor is 43338
final. A statement of the findings of the governor, the reason for 43339
the governor's action, and the answer, if any, of the member shall 43340
be filed by the governor with the secretary of state and shall be 43341
open to public inspection. 43342

Members of the board shall be paid two hundred fifty dollars 43343

for each meeting that the member attends, except that no member 43344
shall be paid or receive more than seven hundred fifty dollars for 43345
attending meetings during any calendar year. Each member shall be 43346
reimbursed for the member's actual and necessary expenses incurred 43347
in the performance of official board duties. The chairperson shall 43348
be paid two hundred fifty dollars annually in addition to any 43349
compensation the chairperson receives under this division for 43350
attending meetings and any other compensation the chairperson 43351
receives for serving on the board. 43352

The division shall provide the board with such offices and 43353
such clerical, professional, and other assistance as may be 43354
reasonably necessary for the board to carry on its work. The 43355
division shall maintain accurate copies of the board's rules as 43356
promulgated in accordance with division (B) of this section and 43357
shall keep all of the board's records, including business records, 43358
and inspection reports as well as its own records and reports. The 43359
cost of administering the board and conducting inspections shall 43360
be included in the budget of the division based on revenues 43361
generated by the registration fees established under section 43362
4169.03 of the Revised Code. 43363

(B) In accordance with Chapter 119. of the Revised Code, the 43364
board shall adopt and may amend or rescind rules relating to 43365
public safety in the construction, maintenance, mechanical 43366
operation, and inspection of passenger tramways. The rules shall 43367
be in accordance with established standards in the business of ski 43368
area operation, if any, and shall not discriminate in their 43369
application to ski area operators. 43370

No person shall violate the rules of the board. 43371

(C) The authority of the board shall not extend to any matter 43372
relative to the operation of a ski area other than the 43373
construction, maintenance, mechanical operation, and inspection of 43374
passenger tramways. 43375

(D) A majority of the board constitutes a quorum and may perform and exercise all the duties and powers devolving upon the board. 43376
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Sec. 4169.03. (A) Before a passenger tramway operator may operate any passenger tramway in the state, the operator shall apply to the ski tramway board, on forms prepared by it, for registration by the board. The application shall contain an inventory of the passenger tramways that the applicant intends to operate and other information as the board may reasonably require and shall be accompanied by the following annual fees: 43379
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- (1) Each aerial passenger tramway, five hundred dollars; 43386
- (2) Each skimobile, two hundred dollars; 43387
- (3) Each chair lift, two hundred dollars; 43388
- (4) Each J bar, T bar, or platter pull, one hundred dollars; 43389
- (5) Each rope tow, fifty dollars; 43390
- (6) Each wire rope tow, seventy-five dollars; 43391
- (7) Each conveyor, one hundred dollars. 43392

When an operator operates an aerial passenger tramway, a skimobile, or a chair lift during both a winter and summer season, the annual fee shall be one and one-half the above amount for the respective passenger tramway. 43393
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(B) Upon payment of the appropriate annual fees in accordance with division (A) of this section, the board shall issue a registration certificate to the operator. Each certificate shall remain in force until the thirtieth day of September next ensuing. The board shall renew an operator's certificate in accordance with the standard renewal procedure in Chapter 4745. of the Revised Code upon payment of the appropriate annual fees. 43397
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(C) Money received from the registration fees and from the 43404

43405 fines collected pursuant to section 4169.99 of the Revised Code
43406 shall be paid into the state treasury to the credit of the ~~labor~~
43407 industrial compliance operating fund created in section 121.084 of
43408 the Revised Code.

43409 (D) No person shall operate a passenger tramway in this state
43410 unless the person has been registered by the board.

43411 **Sec. 4169.04.** (A) The division of ~~labor~~ industrial compliance
43412 in the department of commerce shall make such inspection of the
43413 construction, maintenance, and mechanical operation of passenger
43414 tramways as the ski tramway board may reasonably require. The
43415 division may contract with other qualified engineers to make such
43416 inspection or may accept the inspection report by any qualified
43417 inspector of an insurance company authorized to insure passenger
43418 tramways in this state.

43419 (B) If, as the result of an inspection, an employee of the
43420 division or other agent with whom the division has contracted
43421 finds that a violation of the board's rules exists or a condition
43422 in passenger tramway construction, maintenance, or mechanical
43423 operation exists that endangers public safety, the employee or
43424 agent shall make an immediate report to the board for appropriate
43425 investigation and order.

43426 **Sec. 4171.04.** (A) Before a person may operate any roller
43427 skating rink in the state, the person shall:

43428 (1) Apply to the superintendent of ~~labor~~ industrial
43429 compliance in the department of commerce on forms designated by
43430 the superintendent for a certificate of registration;

43431 (2) Provide an inventory of all the roller skating rinks that
43432 the applicant intends to operate, and any other information the
43433 superintendent may reasonably require on the application;

43434 (3) Include with the application a registration fee of

twenty-five dollars for each roller skating rink to be operated by 43435
the applicant. 43436

(B) Upon compliance with division (A) of this section, the 43437
superintendent shall issue a certificate of registration to the 43438
operator for each roller skating rink to be operated by the 43439
applicant. Each certificate shall remain in force as follows: 43440

(1) Until the thirty-first day of December next ensuing; or 43441

(2) For sixty days after the dissolution of a partnership. 43442

(C) In case of the dissolution of a partnership by death, the 43443
surviving partner or partners may operate a roller skating rink 43444
pursuant to the certificate of registration obtained by the 43445
partnership in accordance with this chapter for a period of sixty 43446
days following dissolution. The heirs or representatives of 43447
deceased persons and receivers or trustees in bankruptcy appointed 43448
by any competent authority may operate under the certificate of 43449
registration of the person succeeded in possession. 43450

(D) The superintendent shall renew an operator's certificate 43451
of registration in accordance with the standard license renewal 43452
procedure set forth in Chapter 4745. of the Revised Code upon 43453
payment of a renewal fee of twenty-five dollars for each roller 43454
skating rink to be operated by the applicant. 43455

(E) Money received from the registration and renewal fees 43456
collected pursuant to this chapter shall be paid into the state 43457
treasury to the credit of the ~~labor~~ industrial compliance 43458
operating fund created in section 121.084 of the Revised Code. 43459

Sec. 4301.30. (A) All fees collected by the division of 43460
liquor control shall be deposited in the state treasury to the 43461
credit of the undivided liquor permit fund, which is hereby 43462
created, at the time prescribed under section 4301.12 of the 43463
Revised Code. Each payment shall be accompanied by a statement 43464

showing separately the amount collected for each class of permits 43465
in each municipal corporation and in each township outside the 43466
limits of any municipal corporation in such township. ~~An~~ 43467

(B)(1) An amount equal to forty-five per cent of the fund 43468
shall be paid from the fund into the state liquor regulatory fund, 43469
which is hereby created in the state treasury. The state liquor 43470
regulatory fund shall be used to pay the operating expenses of the 43471
division of liquor control in administering and enforcing Title 43472
XLIII of the Revised Code and the operating expenses of the liquor 43473
control commission. Investment earnings of the fund shall be 43474
credited to the fund. 43475

(2) Whenever, in the judgment of the director of budget and 43476
management, the amount of money that is in the state liquor 43477
regulatory fund is in excess of the amount that is needed to pay 43478
the operating expenses of the division in administering and 43479
enforcing Title XLIII of the Revised Code and the operating 43480
expenses of the commission, the director shall credit the excess 43481
amount to the general revenue fund. 43482

(C) Twenty per cent of the undivided liquor permit fund shall 43483
be paid into the statewide treatment and prevention fund, which is 43484
hereby created in the state treasury. This amount shall be 43485
appropriated by the general assembly, together with an amount 43486
equal to one and one-half per cent of the gross profit of the 43487
division of liquor control derived under division (B)(4) of 43488
section 4301.10 of the Revised Code, to the department of alcohol 43489
and drug addiction services. In planning for the allocation of and 43490
in allocating these amounts for the purposes of Chapter 3793. of 43491
the Revised Code, the department of alcohol and drug addiction 43492
services shall comply with the nondiscrimination provisions of 43493
Title VI of the Civil Rights Act of 1964, and any rules adopted 43494
under that act. 43495

(D) Thirty-five per cent of the undivided liquor permit fund 43496

shall be distributed by the superintendent of liquor control at 43497
quarterly calendar periods as follows: 43498

~~(A)~~(1) To each municipal corporation, the aggregate amount 43499
shown by the statements to have been collected from permits in the 43500
municipal corporation, for the use of the general fund of the 43501
municipal corporation; 43502

~~(B)~~(2) To each township, the aggregate amount shown by the 43503
statements to have been collected from permits in its territory, 43504
outside the limits of any municipal corporation located in the 43505
township, for the use of the general fund of the township, or for 43506
fire protection purposes, including buildings and equipment in the 43507
township or in an established fire district within the township, 43508
to the extent that the funds are derived from liquor permits 43509
within the territory comprising such fire district. 43510

(E) For the purpose of the distribution required by this 43511
section, E, H, and D permits covering boats or vessels are deemed 43512
to have been issued in the municipal corporation or township 43513
wherein the owner or operator of the vehicle, boat, vessel, or 43514
dining car equipment to which the permit relates has the owner's 43515
or operator's principal office or place of business within the 43516
state. 43517

(F) If the liquor control commission determines that the 43518
police or other officers of any municipal corporation or township 43519
entitled to share in ~~such~~ distributions under this section are 43520
refusing or culpably neglecting to enforce this chapter and 43521
Chapter 4303. of the Revised Code, or the penal laws of this state 43522
relating to the manufacture, importation, transportation, 43523
distribution, and sale of beer and intoxicating liquors, or if the 43524
prosecuting officer of a municipal corporation or a municipal 43525
court fails to comply with the request of the commission 43526
authorized by division (A)(4) of section 4301.10 of the Revised 43527
Code, the commission, by certified mail, may notify the chief 43528

executive officer of the municipal corporation or the board of 43529
township trustees of the township of the failure and require the 43530
immediate cooperation of the responsible officers of the municipal 43531
corporation or township with the division of liquor control in the 43532
enforcement of those chapters and penal laws. Within thirty days 43533
after the notice is served, the commission shall determine whether 43534
the requirement has been complied with. If the commission 43535
determines that the requirement has not been complied with, it may 43536
issue an order to the superintendent to withhold the distributive 43537
share of the municipal corporation or township until further order 43538
of the commission. This action of the commission is reviewable 43539
within thirty days thereafter in the court of common pleas of 43540
Franklin county. 43541

(G) All fees collected by the division of liquor control from 43542
the issuance or renewal of B-2a and S permits, and paid by B-2a 43543
and S permit holders who do not also hold A-2 permits, shall be 43544
deposited in the state treasury to the credit of the state liquor 43545
~~control~~ regulatory fund. Once during each fiscal year, an amount 43546
equal to fifty per cent of the fees collected shall be paid from 43547
the state liquor ~~control~~ regulatory fund into the general revenue 43548
fund. 43549

Sec. 4303.22. Permit H may be issued for a fee of three 43550
hundred dollars to a for-hire motor carrier ~~by motor vehicle~~ who 43551
~~also~~ holds a license issued by the public utilities commission to 43552
transport beer, intoxicating liquor, and alcohol, or any of them, 43553
in this state for delivery or use in this state. This section does 43554
not prevent the division of liquor control from contracting with 43555
~~common or contract~~ for-hire motor carriers for the delivery or 43556
transportation of liquor for the division, and any ~~contract or~~ 43557
~~common~~ for-hire motor carrier so contracting with the division is 43558
eligible for an H permit. Manufacturers or wholesale distributors 43559
of beer or intoxicating liquor other than spirituous liquor who 43560

transport or deliver their own products to or from their premises 43561
licensed under this chapter and Chapter 4301. of the Revised Code 43562
by their own trucks as an incident to the purchase or sale of such 43563
beverages need not obtain an H permit. Carriers by rail shall 43564
receive an H permit upon application for it. 43565

This section does not prevent the division from issuing, upon 43566
the payment of the permit fee, an H permit to any person, 43567
partnership, firm, or corporation licensed by any other state to 43568
engage in the business of manufacturing and brewing or producing 43569
beer, wine, and mixed beverages or any person, partnership, firm, 43570
or corporation licensed by the United States or any other state to 43571
engage in the business of importing beer, wine, and mixed 43572
beverages manufactured outside the United States. The 43573
manufacturer, brewer, or importer of products manufactured outside 43574
the United States, upon the issuance of an H permit, may 43575
transport, ship, and deliver only its own products to holders of 43576
B-1 or B-5 permits in Ohio in motor trucks and equipment owned and 43577
operated by such class H permit holder. No H permit shall be 43578
issued by the division to such applicant until the applicant files 43579
with the division a liability insurance certificate or policy 43580
satisfactory to the division, in a sum of not less than one 43581
thousand nor more than five thousand dollars for property damage 43582
and for not less than five thousand nor more than fifty thousand 43583
dollars for loss sustained by reason of injury or death and with 43584
such other terms as the division considers necessary to adequately 43585
protect the interest of the public, having due regard for the 43586
number of persons and amount of property affected. The certificate 43587
or policy shall insure the manufacturer, brewer, or importer of 43588
products manufactured outside the United States against loss 43589
sustained by reason of the death of or injury to persons, and for 43590
loss of or damage to property, from the negligence of such class H 43591
permit holder in the operation of its motor vehicles or equipment 43592

in this state. 43593

Sec. 4313.02. (A) The state may transfer to JobsOhio, and 43594
JobsOhio may accept the transfer of, all or a portion of the 43595
enterprise acquisition project for a transfer price payable by 43596
JobsOhio to the state. Any such transfer shall be treated as an 43597
absolute conveyance and true sale of the interest in the 43598
enterprise acquisition project purported to be conveyed for all 43599
purposes, and not as a pledge or other security interest. The 43600
characterization of any such transfer as a true sale and absolute 43601
conveyance shall not be negated or adversely affected by the 43602
acquisition or retention by the state of a residual or 43603
reversionary interest in the enterprise acquisition project, the 43604
participation of any state officer or employee as a member or 43605
officer of, or contracting for staff support to, JobsOhio or any 43606
subsidiary of JobsOhio, any regulatory responsibility of an 43607
officer or employee of the state, including the authority to 43608
collect amounts to be received in connection therewith, the 43609
retention of the state of any legal title to or interest in any 43610
portion of the enterprise acquisition project for the purpose of 43611
regulatory activities, or any characterization of JobsOhio or 43612
obligations of JobsOhio under accounting, taxation, or securities 43613
regulations, or any other reason whatsoever. An absolute 43614
conveyance and true sale or lease shall exist under this section 43615
regardless of whether JobsOhio has any recourse against the state 43616
or the treatment or characterization of the transfer as a 43617
financing for any purpose. Upon and following the transfer, the 43618
state shall not have any right, title, or interest in the 43619
enterprise acquisition project so transferred other than any 43620
residual interest that may be described in the transfer agreement 43621
pursuant to the following paragraph and division (D) of this 43622
section. Any determination of the fair market value of the 43623
enterprise acquisition project reflected in the transfer agreement 43624

shall be conclusive and binding on the state and JobsOhio. 43625

Any transfer of the enterprise acquisition project that is a 43626
lease or grant of a franchise shall be for a term not to exceed 43627
twenty-five years. Any transfer of the enterprise acquisition 43628
project that is an assignment and sale, conveyance, or other 43629
transfer shall contain a provision that the state shall have the 43630
option to have conveyed or transferred back to it, at no cost, the 43631
enterprise acquisition project, as it then exists, no later than 43632
twenty-five years after the original transfer authorized in the 43633
transfer agreement on such other terms as shall be provided in the 43634
transfer agreement. 43635

The exercise of the powers granted by this section will be 43636
for the benefit of the people of the state. All or any portion of 43637
the enterprise acquisition project transferred pursuant to the 43638
transfer agreement that would be exempt from real property taxes 43639
or assessments or real property taxes or assessments in the 43640
absence of such transfer shall, as it may from time to time exist 43641
thereafter, remain exempt from real property taxes or assessments 43642
levied by the state and its subdivisions to the same extent as if 43643
not transferred. The gross receipts and income of JobsOhio derived 43644
from the enterprise acquisition project shall be exempt from 43645
taxation levied by the state and its subdivisions, including, but 43646
not limited to, the taxes levied pursuant to Chapters 718., 5739., 43647
5741., 5747., and 5751. of the Revised Code. Any transfer from the 43648
state to JobsOhio of the enterprise acquisition project, or item 43649
included or to be included in the project, shall be exempt from 43650
the taxes levied pursuant to Chapters 5739. and 5741. of the 43651
Revised Code. 43652

(B) The proceeds of any transfer under division (A) of this 43653
section may be expended as provided in the transfer agreement for 43654
any one or more of the following purposes: 43655

(1) Funding, payment, or defeasance of outstanding bonds 43656
issued pursuant to Chapters 151. and 166. of the Revised Code and 43657
secured by pledged liquor profits as defined in section 151.40 of 43658
the Revised Code; 43659

(2) Deposit into the general revenue fund; 43660

(3) Deposit into the clean Ohio revitalization fund created 43661
pursuant to section 122.658 of the Revised Code, the innovation 43662
Ohio loan fund created pursuant to section 166.16 of the Revised 43663
Code, the research and development loan fund created pursuant to 43664
section 166.20 of the Revised Code, the logistics and distribution 43665
infrastructure fund created pursuant to section 166.26 of the 43666
Revised Code, the advanced energy research and development fund 43667
created pursuant to section 3706.27 of the Revised Code, and the 43668
advanced energy research and development taxable fund created 43669
pursuant to section 3706.27 of the Revised Code; 43670

(4) Conveyance to JobsOhio for the purposes for which it was 43671
created. 43672

(C)(1) The state may covenant, pledge, and agree in the 43673
transfer agreement, with and for the benefit of JobsOhio, that it 43674
shall maintain statutory authority for the enterprise acquisition 43675
project and the revenues of the enterprise acquisition project and 43676
not otherwise materially impair any obligations supported by a 43677
pledge of revenues of the enterprise acquisition project. The 43678
transfer agreement may provide or authorize the manner for 43679
determining material impairment of the security for any such 43680
outstanding obligations, including by assessing and evaluating the 43681
revenues of the enterprise acquisition project. 43682

(2) The director of budget and management, in consultation 43683
with the director of commerce, may, without need for any other 43684
approval, negotiate terms of any documents, including the transfer 43685
agreement, necessary to effect the transfer and the acceptance of 43686

the transfer of the enterprise acquisition project. The director 43687
of budget and management and the director of commerce shall 43688
execute the transfer agreement on behalf of the state. The 43689
director of budget and management may also, without need for any 43690
other approval, retain or contract for the services of commercial 43691
appraisers, underwriters, investment bankers, and financial 43692
advisers, as are necessary in the judgment of the director of 43693
budget and management to effect the transfer agreement. Any 43694
transfer agreement may contain terms and conditions established by 43695
the state to carry out and effectuate the purposes of this 43696
section, including, without limitation, covenants binding the 43697
state in favor of JobsOhio. Any such transfer agreement shall be 43698
sufficient to effectuate the transfer without regard to any other 43699
laws governing other property sales or financial transactions by 43700
the state. The director of budget and management may create any 43701
funds or accounts, within or without the state treasury, as are 43702
needed for the transactions and activities authorized by this 43703
section. 43704

(3) The transfer agreement may authorize JobsOhio, in the 43705
ordinary course of doing business, to convey, lease, release, or 43706
otherwise dispose of any regular inventory or tangible personal 43707
property. Ownership of the interest in the enterprise acquisition 43708
project that is transferred to JobsOhio under this section and the 43709
transfer agreement shall be maintained in JobsOhio or a nonprofit 43710
entity the sole member of which is JobsOhio until the enterprise 43711
acquisition project is transferred back to the state pursuant to 43712
the second paragraph of division (A) and division (D) of this 43713
section. 43714

(D) The transfer agreement may authorize JobsOhio to fix, 43715
alter, and collect rentals and other charges for the use and 43716
occupancy of all or any portion of the enterprise acquisition 43717
project and to lease any portion of the enterprise acquisition 43718

project to the state, and shall include a contract with, or the 43719
granting of an option to, the state to have the enterprise 43720
acquisition project, as it then exists, transferred back to it 43721
without charge in accordance with the terms of the transfer 43722
agreement after retirement or redemption, or provision therefor, 43723
of all obligations supported by a pledge of spirituous liquor 43724
profits. 43725

(E) JobsOhio, the director of budget and management, and the 43726
director of commerce shall, subject to approval by the controlling 43727
board, enter into a contract, which may be part of the transfer 43728
agreement, for the continuing operation by the division of liquor 43729
control of spirituous liquor distribution and merchandising 43730
subject to standards for performance provided in that contract 43731
that may relate to or support division (C)(1) of this section. The 43732
contract shall establish other terms and conditions for the 43733
assignment of duties to, and the provision of advice, services, 43734
and other assistance by, the division of liquor control, including 43735
providing for the necessary staffing and payment by JobsOhio of 43736
appropriate compensation to the division for the performance of 43737
such duties and the provision of such advice, services, and other 43738
assistance. The division of liquor control shall manage and 43739
actively supervise the activities required or authorized under 43740
sections 4301.10 and 4301.17 of the Revised Code as those sections 43741
exist on ~~the effective date of this section~~ September 29, 2011, 43742
including, but not limited to, controlling the traffic in 43743
intoxicating liquor in this state and fixing the wholesale and 43744
retail prices at which the various classes, varieties, and brands 43745
of spirituous liquor are sold. 43746

(F) The transfer agreement shall require JobsOhio to pay for 43747
the operations of the division of liquor control with regard to 43748
the spirituous liquor merchandising operations of the division. 43749
The payments from JobsOhio shall be deposited into the state 43750

treasury to the credit of the liquor ~~control~~ operating services 43751
fund ~~created in section 4301.12 of the Revised Code, which is~~ 43752
hereby created in the state treasury. The fund shall be used to 43753
pay for the operations of the division specified in this division. 43754

(G) The transaction and transfer provided for under this 43755
section shall comply with all applicable provisions of the Ohio 43756
Constitution. 43757

Sec. 4501.01. As used in this chapter and Chapters 4503., 43758
4505., 4507., 4509., 4510., 4511., 4513., 4515., and 4517. of the 43759
Revised Code, and in the penal laws, except as otherwise provided: 43760

(A) "Vehicles" means everything on wheels or runners, 43761
including motorized bicycles, but does not mean electric personal 43762
assistive mobility devices, vehicles that are operated exclusively 43763
on rails or tracks or from overhead electric trolley wires, and 43764
vehicles that belong to any police department, municipal fire 43765
department, or volunteer fire department, or that are used by such 43766
a department in the discharge of its functions. 43767

(B) "Motor vehicle" means any vehicle, including mobile homes 43768
and recreational vehicles, that is propelled or drawn by power 43769
other than muscular power or power collected from overhead 43770
electric trolley wires. "Motor vehicle" does not include utility 43771
vehicles as defined in division (VV) of this section, motorized 43772
bicycles, road rollers, traction engines, power shovels, power 43773
cranes, and other equipment used in construction work and not 43774
designed for or employed in general highway transportation, 43775
well-drilling machinery, ditch-digging machinery, farm machinery, 43776
and trailers that are designed and used exclusively to transport a 43777
boat between a place of storage and a marina, or in and around a 43778
marina, when drawn or towed on a public road or highway for a 43779
distance of no more than ten miles and at a speed of twenty-five 43780
miles per hour or less. 43781

(C) "Agricultural tractor" and "traction engine" mean any self-propelling vehicle that is designed or used for drawing other vehicles or wheeled machinery, but has no provisions for carrying loads independently of such other vehicles, and that is used principally for agricultural purposes.

(D) "Commercial tractor," except as defined in division (C) of this section, means any motor vehicle that has motive power and either is designed or used for drawing other motor vehicles, or is designed or used for drawing another motor vehicle while carrying a portion of the other motor vehicle or its load, or both.

(E) "Passenger car" means any motor vehicle that is designed and used for carrying not more than nine persons and includes any motor vehicle that is designed and used for carrying not more than fifteen persons in a ridesharing arrangement.

(F) "Collector's vehicle" means any motor vehicle or agricultural tractor or traction engine that is of special interest, that has a fair market value of one hundred dollars or more, whether operable or not, and that is owned, operated, collected, preserved, restored, maintained, or used essentially as a collector's item, leisure pursuit, or investment, but not as the owner's principal means of transportation. "Licensed collector's vehicle" means a collector's vehicle, other than an agricultural tractor or traction engine, that displays current, valid license tags issued under section 4503.45 of the Revised Code, or a similar type of motor vehicle that displays current, valid license tags issued under substantially equivalent provisions in the laws of other states.

(G) "Historical motor vehicle" means any motor vehicle that is over twenty-five years old and is owned solely as a collector's item and for participation in club activities, exhibitions, tours, parades, and similar uses, but that in no event is used for general transportation.

(H) "Noncommercial motor vehicle" means any motor vehicle, 43814
including a farm truck as defined in section 4503.04 of the 43815
Revised Code, that is designed by the manufacturer to carry a load 43816
of no more than one ton and is used exclusively for purposes other 43817
than engaging in business for profit. 43818

(I) "Bus" means any motor vehicle that has motor power and is 43819
designed and used for carrying more than nine passengers, except 43820
any motor vehicle that is designed and used for carrying not more 43821
than fifteen passengers in a ridesharing arrangement. 43822

(J) "Commercial car" or "truck" means any motor vehicle that 43823
has motor power and is designed and used for carrying merchandise 43824
or freight, or that is used as a commercial tractor. 43825

(K) "Bicycle" means every device, other than a tricycle that 43826
is designed solely for use as a play vehicle by a child, that is 43827
propelled solely by human power upon which any person may ride, 43828
and that has two tandem wheels, or one wheel in front and two 43829
wheels in the rear, or two wheels in the front and one wheel in 43830
the rear, any of which is more than fourteen inches in diameter. 43831

(L) "Motorized bicycle" means any vehicle that either has two 43832
tandem wheels or one wheel in the front and two wheels in the 43833
rear, that is capable of being pedaled, and that is equipped with 43834
a helper motor of not more than fifty cubic centimeters piston 43835
displacement that produces no more than one brake horsepower and 43836
is capable of propelling the vehicle at a speed of no greater than 43837
twenty miles per hour on a level surface. 43838

(M) "Trailer" means any vehicle without motive power that is 43839
designed or used for carrying property or persons wholly on its 43840
own structure and for being drawn by a motor vehicle, and includes 43841
any such vehicle that is formed by or operated as a combination of 43842
a semitrailer and a vehicle of the dolly type such as that 43843
commonly known as a trailer dolly, a vehicle used to transport 43844

agricultural produce or agricultural production materials between 43845
a local place of storage or supply and the farm when drawn or 43846
towed on a public road or highway at a speed greater than 43847
twenty-five miles per hour, and a vehicle that is designed and 43848
used exclusively to transport a boat between a place of storage 43849
and a marina, or in and around a marina, when drawn or towed on a 43850
public road or highway for a distance of more than ten miles or at 43851
a speed of more than twenty-five miles per hour. "Trailer" does 43852
not include a manufactured home or travel trailer. 43853

(N) "Noncommercial trailer" means any trailer, except a 43854
travel trailer or trailer that is used to transport a boat as 43855
described in division (B) of this section, but, where applicable, 43856
includes a vehicle that is used to transport a boat as described 43857
in division (M) of this section, that has a gross weight of no 43858
more than ten thousand pounds, and that is used exclusively for 43859
purposes other than engaging in business for a profit, such as the 43860
transportation of personal items for personal or recreational 43861
purposes. 43862

(O) "Mobile home" means a building unit or assembly of closed 43863
construction that is fabricated in an off-site facility, is more 43864
than thirty-five body feet in length or, when erected on site, is 43865
three hundred twenty or more square feet, is built on a permanent 43866
chassis, is transportable in one or more sections, and does not 43867
qualify as a manufactured home as defined in division (C)(4) of 43868
section 3781.06 of the Revised Code or as an industrialized unit 43869
as defined in division (C)(3) of section 3781.06 of the Revised 43870
Code. 43871

(P) "Semitrailer" means any vehicle of the trailer type that 43872
does not have motive power and is so designed or used with another 43873
and separate motor vehicle that in operation a part of its own 43874
weight or that of its load, or both, rests upon and is carried by 43875
the other vehicle furnishing the motive power for propelling 43876

itself and the vehicle referred to in this division, and includes, 43877
for the purpose only of registration and taxation under those 43878
chapters, any vehicle of the dolly type, such as a trailer dolly, 43879
that is designed or used for the conversion of a semitrailer into 43880
a trailer. 43881

(Q) "Recreational vehicle" means a vehicular portable 43882
structure that meets all of the following conditions: 43883

(1) It is designed for the sole purpose of recreational 43884
travel. 43885

(2) It is not used for the purpose of engaging in business 43886
for profit. 43887

(3) It is not used for the purpose of engaging in intrastate 43888
commerce. 43889

(4) It is not used for the purpose of commerce as defined in 43890
49 C.F.R. 383.5, as amended. 43891

(5) It is not regulated by the public utilities commission 43892
pursuant to Chapter ~~4919~~ 4905., 4921., or 4923. of the Revised 43893
Code. 43894

(6) It is classed as one of the following: 43895

(a) "Travel trailer" means a nonself-propelled recreational 43896
vehicle that does not exceed an overall length of thirty-five 43897
feet, exclusive of bumper and tongue or coupling, and contains 43898
less than three hundred twenty square feet of space when erected 43899
on site. "Travel trailer" includes a tent-type fold-out camping 43900
trailer as defined in section 4517.01 of the Revised Code. 43901

(b) "Motor home" means a self-propelled recreational vehicle 43902
that has no fifth wheel and is constructed with permanently 43903
installed facilities for cold storage, cooking and consuming of 43904
food, and for sleeping. 43905

(c) "Truck camper" means a nonself-propelled recreational 43906

vehicle that does not have wheels for road use and is designed to be placed upon and attached to a motor vehicle. "Truck camper" does not include truck covers that consist of walls and a roof, but do not have floors and facilities enabling them to be used as a dwelling.

(d) "Fifth wheel trailer" means a vehicle that is of such size and weight as to be movable without a special highway permit, that has a gross trailer area of four hundred square feet or less, that is constructed with a raised forward section that allows a bi-level floor plan, and that is designed to be towed by a vehicle equipped with a fifth-wheel hitch ordinarily installed in the bed of a truck.

(e) "Park trailer" means a vehicle that is commonly known as a park model recreational vehicle, meets the American national standard institute standard A119.5 (1988) for park trailers, is built on a single chassis, has a gross trailer area of four hundred square feet or less when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for the operation of installed features and appliances.

(R) "Pneumatic tires" means tires of rubber and fabric or tires of similar material, that are inflated with air.

(S) "Solid tires" means tires of rubber or similar elastic material that are not dependent upon confined air for support of the load.

(T) "Solid tire vehicle" means any vehicle that is equipped with two or more solid tires.

(U) "Farm machinery" means all machines and tools that are used in the production, harvesting, and care of farm products, and includes trailers that are used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm, agricultural tractors, threshing

machinery, hay-baling machinery, corn shellers, hammermills, and 43938
machinery used in the production of horticultural, agricultural, 43939
and vegetable products. 43940

(V) "Owner" includes any person or firm, other than a 43941
manufacturer or dealer, that has title to a motor vehicle, except 43942
that, in sections 4505.01 to 4505.19 of the Revised Code, "owner" 43943
includes in addition manufacturers and dealers. 43944

(W) "Manufacturer" and "dealer" include all persons and firms 43945
that are regularly engaged in the business of manufacturing, 43946
selling, displaying, offering for sale, or dealing in motor 43947
vehicles, at an established place of business that is used 43948
exclusively for the purpose of manufacturing, selling, displaying, 43949
offering for sale, or dealing in motor vehicles. A place of 43950
business that is used for manufacturing, selling, displaying, 43951
offering for sale, or dealing in motor vehicles shall be deemed to 43952
be used exclusively for those purposes even though snowmobiles or 43953
all-purpose vehicles are sold or displayed for sale thereat, even 43954
though farm machinery is sold or displayed for sale thereat, or 43955
even though repair, accessory, gasoline and oil, storage, parts, 43956
service, or paint departments are maintained thereat, or, in any 43957
county having a population of less than seventy-five thousand at 43958
the last federal census, even though a department in a place of 43959
business is used to dismantle, salvage, or rebuild motor vehicles 43960
by means of used parts, if such departments are operated for the 43961
purpose of furthering and assisting in the business of 43962
manufacturing, selling, displaying, offering for sale, or dealing 43963
in motor vehicles. Places of business or departments in a place of 43964
business used to dismantle, salvage, or rebuild motor vehicles by 43965
means of using used parts are not considered as being maintained 43966
for the purpose of assisting or furthering the manufacturing, 43967
selling, displaying, and offering for sale or dealing in motor 43968
vehicles. 43969

(X) "Operator" includes any person who drives or operates a motor vehicle upon the public highways.

(Y) "Chauffeur" means any operator who operates a motor vehicle, other than a taxicab, as an employee for hire; or any operator whether or not the owner of a motor vehicle, other than a taxicab, who operates such vehicle for transporting, for gain, compensation, or profit, either persons or property owned by another. Any operator of a motor vehicle who is voluntarily involved in a ridesharing arrangement is not considered an employee for hire or operating such vehicle for gain, compensation, or profit.

(Z) "State" includes the territories and federal districts of the United States, and the provinces of Canada.

(AA) "Public roads and highways" for vehicles includes all public thoroughfares, bridges, and culverts.

(BB) "Manufacturer's number" means the manufacturer's original serial number that is affixed to or imprinted upon the chassis or other part of the motor vehicle.

(CC) "Motor number" means the manufacturer's original number that is affixed to or imprinted upon the engine or motor of the vehicle.

(DD) "Distributor" means any person who is authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed motor vehicle dealers at an established place of business that is used exclusively for the purpose of distributing new motor vehicles to licensed motor vehicle dealers, except when the distributor also is a new motor vehicle dealer, in which case the distributor may distribute at the location of the distributor's licensed dealership.

(EE) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where the transportation is incidental

to another purpose of a volunteer driver and includes ridesharing 44001
arrangements known as carpools, vanpools, and buspools. 44002

(FF) "Apportionable vehicle" means any vehicle that is used 44003
or intended for use in two or more international registration plan 44004
member jurisdictions that allocate or proportionally register 44005
vehicles, that is used for the transportation of persons for hire 44006
or designed, used, or maintained primarily for the transportation 44007
of property, and that meets any of the following qualifications: 44008

(1) Is a power unit having a gross vehicle weight in excess 44009
of twenty-six thousand pounds; 44010

(2) Is a power unit having three or more axles, regardless of 44011
the gross vehicle weight; 44012

(3) Is a combination vehicle with a gross vehicle weight in 44013
excess of twenty-six thousand pounds. 44014

"Apportionable vehicle" does not include recreational 44015
vehicles, vehicles displaying restricted plates, city pick-up and 44016
delivery vehicles, buses used for the transportation of chartered 44017
parties, or vehicles owned and operated by the United States, this 44018
state, or any political subdivisions thereof. 44019

(GG) "Chartered party" means a group of persons who contract 44020
as a group to acquire the exclusive use of a passenger-carrying 44021
motor vehicle at a fixed charge for the vehicle in accordance with 44022
the carrier's tariff, lawfully on file with the United States 44023
department of transportation, for the purpose of group travel to a 44024
specified destination or for a particular itinerary, either agreed 44025
upon in advance or modified by the chartered group after having 44026
left the place of origin. 44027

(HH) "International registration plan" means a reciprocal 44028
agreement of member jurisdictions that is endorsed by the American 44029
association of motor vehicle administrators, and that promotes and 44030
encourages the fullest possible use of the highway system by 44031

authorizing apportioned registration of fleets of vehicles and 44032
recognizing registration of vehicles apportioned in member 44033
jurisdictions. 44034

(II) "Restricted plate" means a license plate that has a 44035
restriction of time, geographic area, mileage, or commodity, and 44036
includes license plates issued to farm trucks under division (J) 44037
of section 4503.04 of the Revised Code. 44038

(JJ) "Gross vehicle weight," with regard to any commercial 44039
car, trailer, semitrailer, or bus that is taxed at the rates 44040
established under section 4503.042 or 4503.65 of the Revised Code, 44041
means the unladen weight of the vehicle fully equipped plus the 44042
maximum weight of the load to be carried on the vehicle. 44043

(KK) "Combined gross vehicle weight" with regard to any 44044
combination of a commercial car, trailer, and semitrailer, that is 44045
taxed at the rates established under section 4503.042 or 4503.65 44046
of the Revised Code, means the total unladen weight of the 44047
combination of vehicles fully equipped plus the maximum weight of 44048
the load to be carried on that combination of vehicles. 44049

(LL) "Chauffeured limousine" means a motor vehicle that is 44050
designed to carry nine or fewer passengers and is operated for 44051
hire on an hourly basis pursuant to a prearranged contract for the 44052
transportation of passengers on public roads and highways along a 44053
route under the control of the person hiring the vehicle and not 44054
over a defined and regular route. "Prearranged contract" means an 44055
agreement, made in advance of boarding, to provide transportation 44056
from a specific location in a chauffeured limousine at a fixed 44057
rate per hour or trip. "Chauffeured limousine" does not include 44058
any vehicle that is used exclusively in the business of funeral 44059
directing. 44060

(MM) "Manufactured home" has the same meaning as in division 44061
(C)(4) of section 3781.06 of the Revised Code. 44062

(NN) "Acquired situs," with respect to a manufactured home or a mobile home, means to become located in this state by the placement of the home on real property, but does not include the placement of a manufactured home or a mobile home in the inventory of a new motor vehicle dealer or the inventory of a manufacturer, remanufacturer, or distributor of manufactured or mobile homes.

(OO) "Electronic" includes electrical, digital, magnetic, optical, electromagnetic, or any other form of technology that entails capabilities similar to these technologies.

(PP) "Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

(QQ) "Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record.

(RR) "Financial transaction device" has the same meaning as in division (A) of section 113.40 of the Revised Code.

(SS) "Electronic motor vehicle dealer" means a motor vehicle dealer licensed under Chapter 4517. of the Revised Code whom the registrar of motor vehicles determines meets the criteria designated in section 4503.035 of the Revised Code for electronic motor vehicle dealers and designates as an electronic motor vehicle dealer under that section.

(TT) "Electric personal assistive mobility device" means a self-balancing two non-tandem wheeled device that is designed to transport only one person, has an electric propulsion system of an average of seven hundred fifty watts, and when ridden on a paved level surface by an operator who weighs one hundred seventy pounds has a maximum speed of less than twenty miles per hour.

(UU) "Limited driving privileges" means the privilege to

operate a motor vehicle that a court grants under section 4510.021 44094
of the Revised Code to a person whose driver's or commercial 44095
driver's license or permit or nonresident operating privilege has 44096
been suspended. 44097

(VV) "Utility vehicle" means a self-propelled vehicle 44098
designed with a bed, principally for the purpose of transporting 44099
material or cargo in connection with construction, agricultural, 44100
forestry, grounds maintenance, lawn and garden, materials 44101
handling, or similar activities. "Utility vehicle" includes a 44102
vehicle with a maximum attainable speed of twenty miles per hour 44103
or less that is used exclusively within the boundaries of state 44104
parks by state park employees or volunteers for the operation or 44105
maintenance of state park facilities. 44106

Sec. 4501.06. The taxes, fees, and fines levied, charged, or 44107
referred to in division (O) of section 4503.04, division (E) of 44108
section 4503.042, division (B) of section 4503.07, division (C)(1) 44109
of section 4503.10, division (D) of section 4503.182, division (A) 44110
of section 4503.19, division (D)(2) of section 4507.24, division 44111
(A) of section 4508.06, and sections 4503.40, 4503.42, 4505.11, 44112
4505.111, 4506.08, 4506.09, 4507.23, 4508.05, ~~4923.12~~, and 5502.12 44113
of the Revised Code, and the taxes charged in section 4503.65 that 44114
are distributed in accordance with division (A)(2) of section 44115
4501.044 of the Revised Code unless otherwise designated by law, 44116
shall be deposited in the state treasury to the credit of the 44117
state highway safety fund, which is hereby created, and shall, 44118
after receipt of certifications from the commissioners of the 44119
sinking fund certifying that there are sufficient moneys to the 44120
credit of the highway obligations bond retirement fund created by 44121
section 5528.32 of the Revised Code to meet in full all payments 44122
of interest, principal, and charges for the retirement of highway 44123
obligations issued pursuant to Section 2i of Article VIII, Ohio 44124
Constitution, and sections 5528.30 and 5528.31 of the Revised Code 44125

due and payable during the current calendar year, be used for the 44126
purpose of enforcing and paying the expenses of administering the 44127
law relative to the registration and operation of motor vehicles 44128
on the public roads or highways. Amounts credited to the fund may 44129
also be used to pay the expenses of administering and enforcing 44130
the laws under which such fees were collected. All investment 44131
earnings of the state highway safety fund shall be credited to the 44132
fund. 44133

Sec. 4503.031. (A)(1) If the registrar of motor vehicles 44134
determines that space is available at a deputy registrar's office, 44135
the clerk of the court of common pleas in the county where the 44136
deputy is located shall be given the opportunity to use the space 44137
for the purpose of carrying out the clerk's duties related to the 44138
titling of motor vehicles. Each clerk of the court of common pleas 44139
using space in a deputy registrar's office shall remit to the 44140
deputy a rental fee equal to the percentage of space occupied by 44141
the clerk in the deputy's office multiplied by the rental fee or 44142
mortgage cost paid for the entire deputy registrar's office plus a 44143
pro rata share of all utility costs. 44144

(2) If the clerk of the court of common pleas determines that 44145
space is available at any location at which the clerk has an 44146
office, the clerk shall inform the registrar of that fact and 44147
shall provide the registrar with all pertinent information about 44148
the available space. After giving due consideration to the 44149
locations of deputy registrar offices existing in the county in 44150
which the clerk of the court of common pleas is located, the 44151
registrar shall inform the appropriate deputy registrars, if any, 44152
of the available space of the clerk of the court of common pleas. 44153
Each such deputy registrar shall be given the opportunity to use 44154
the space for the purpose of carrying out the deputy registrar's 44155
duties. Each deputy registrar using space in the office of the 44156
clerk of a court of common pleas shall remit to the clerk a rental 44157

fee equal to the percentage of space occupied by the deputy registrar in the clerk's office multiplied by the rental fee or mortgage cost, if any, paid for the entire clerk's office plus a pro rata share of all utility costs.

If no current deputy registrar elects to utilize the available space of the clerk of the court of common pleas, the registrar shall inform all persons who express an interest to the registrar in becoming a deputy registrar in that county of the available space of the clerk if the space in fact continues to be available.

(3) A clerk of the court of common pleas and a deputy registrar may elect to occupy a location at which neither the clerk nor the deputy currently is an occupant. Any such arrangement is subject to the approval of the registrar, who shall give due consideration to all issues and aspects of the proposed arrangement, including security at the location and service to the public.

(B) ~~The~~ When possible, as determined by the director of public safety and the registrar and the superintendent of the state highway patrol shall cooperate to the fullest extent possible in locating, a driver's license examination station shall be located at or near a deputy registrar's office. For each driver's license examination station located at a deputy registrar's office, the ~~superintendent of the state highway patrol~~ director shall remit to the deputy a rental fee equal to the percentage of space occupied for the driver's license examination station multiplied by the rental fee or mortgage cost paid for the entire deputy registrar's office plus a pro rata share of all utility costs.

(C) During the regular business hours of deputy registrars, the registrar shall keep the central office open and sufficiently staffed to be able to respond to the technical needs of the

deputies. 44190

(D) The registrar shall adopt rules to promote public 44191
information regarding motor vehicle registration. The rules shall 44192
include: 44193

(1) The operation by the registrar, during the regular 44194
business hours of deputy registrars, of a toll-free telephone 44195
number to give information and receive complaints; 44196

(2) The listing by the registrar, of each deputy registrar, 44197
together with the toll-free telephone number required under 44198
division (D)(1) of this section, in the local business and 44199
advertising telephone directory for the area served by the deputy, 44200
under the heading of the bureau of motor vehicles. 44201

Sec. 4503.061. (A) All manufactured and mobile homes shall be 44202
listed on either the real property tax list or the manufactured 44203
home tax list of the county in which the home has situs. Each 44204
owner shall follow the procedures in this section to identify the 44205
home to the county auditor of the county containing the taxing 44206
district in which the home has situs so that the auditor may place 44207
the home on the appropriate tax list. 44208

(B) When a manufactured or mobile home first acquires situs 44209
in this state and is subject to real property taxation pursuant to 44210
division (B)(1) or (2) of section 4503.06 of the Revised Code, the 44211
owner shall present to the auditor of the county containing the 44212
taxing district in which the home has its situs the certificate of 44213
title for the home, together with proof that all taxes due have 44214
been paid and proof that a relocation notice was obtained for the 44215
home if required under this section. Upon receiving the 44216
certificate of title and the required proofs, the auditor shall 44217
place the home on the real property tax list and proceed to treat 44218
the home as other properties on that list. After the auditor has 44219
placed the home on the tax list of real and public utility 44220

property, the auditor shall deliver the certificate of title to 44221
the clerk of the court of common pleas that issued it pursuant to 44222
section 4505.11 of the Revised Code, and the clerk shall 44223
inactivate the certificate of title. 44224

(C)(1) When a manufactured or mobile home subject to a 44225
manufactured home tax is relocated to or first acquires situs in 44226
any county that has adopted a permanent manufactured home 44227
registration system, as provided in division (F) of this section, 44228
the owner, within thirty days after the home is relocated or first 44229
acquires situs under section 4503.06 of the Revised Code, shall 44230
register the home with the county auditor of the county containing 44231
the taxing district in which the home has its situs. For the first 44232
registration in each county of situs, the owner or vendee in 44233
possession shall present to the county auditor an Ohio certificate 44234
of title, certified copy of the certificate of title, or 44235
memorandum certificate of title as such are required by law, and 44236
proof, as required by the county auditor, that the home, if it has 44237
previously been occupied and is being relocated, has been 44238
previously registered, that all taxes due and required to be paid 44239
under division (H)(1) of this section before a relocation notice 44240
may be issued have been paid, and that a relocation notice was 44241
obtained for the home if required by division (H) of this section. 44242
If the owner or vendee does not possess the Ohio certificate of 44243
title, certified copy of the certificate of title, or memorandum 44244
certificate of title at the time the owner or vendee first 44245
registers the home in a county, the county auditor shall register 44246
the home without presentation of the document, but the owner or 44247
vendee shall present the certificate of title, certified copy of 44248
the certificate of title, or memorandum certificate of title to 44249
the county auditor within fourteen days after the owner or vendee 44250
obtains possession of the document. 44251

(2) When a manufactured or mobile home is registered for the 44252

first time in a county and when the total tax due has been paid as 44253
required by division (F) of section 4503.06 of the Revised Code or 44254
divisions (E) and (H) of this section, the county treasurer shall 44255
note by writing or by a stamp on the certificate of title, 44256
certified copy of certificate of title, or memorandum certificate 44257
of title that the home has been registered and that the taxes due, 44258
if any, have been paid for the preceding five years and for the 44259
current year. The treasurer shall then issue a certificate 44260
evidencing registration and a decal to be displayed on the street 44261
side of the home. The certificate is valid in any county in this 44262
state during the year for which it is issued. 44263

(3) For each year thereafter, the county treasurer shall 44264
issue a tax bill stating the amount of tax due under section 44265
4503.06 of the Revised Code, as provided in division (D)(6) of 44266
that section. When the total tax due has been paid as required by 44267
division (F) of that section, the county treasurer shall issue a 44268
certificate evidencing registration that shall be valid in any 44269
county in this state during the year for which the certificate is 44270
issued. 44271

(4) The permanent decal issued under this division is valid 44272
during the period of ownership, except that when a manufactured 44273
home is relocated in another county the owner shall apply for a 44274
new registration as required by this section and section 4503.06 44275
of the Revised Code. 44276

(D)(1) All owners of manufactured or mobile homes subject to 44277
the manufactured home tax being relocated to or having situs in a 44278
county that has not adopted a permanent registration system, as 44279
provided in division (F) of this section, shall register the home 44280
within thirty days after the home is relocated or first acquires 44281
situs under section 4503.06 of the Revised Code and thereafter 44282
shall annually register the home with the county auditor of the 44283
county containing the taxing district in which the home has its 44284

situs. 44285

(2) Upon the annual registration, the county treasurer shall 44286
issue a tax bill stating the amount of annual manufactured home 44287
tax due under section 4503.06 of the Revised Code, as provided in 44288
division (D)(6) of that section. When a manufactured or mobile 44289
home is registered and when the tax for the current one-half year 44290
has been paid as required by division (F) of that section, the 44291
county treasurer shall issue a certificate evidencing registration 44292
and a decal. The certificate and decal are valid in any county in 44293
this state during the year for which they are issued. The decal 44294
shall be displayed on the street side of the home. 44295

(3) For the first annual registration in each county of 44296
situs, the county auditor shall require the owner or vendee to 44297
present an Ohio certificate of title, certified copy of the 44298
certificate of title, or memorandum certificate of title as such 44299
are required by law, and proof, as required by the county auditor, 44300
that the manufactured or mobile home has been previously 44301
registered, if such registration was required, that all taxes due 44302
and required to be paid under division (H)(1) of this section 44303
before a relocation notice may be issued have been paid, and that 44304
a relocation notice was obtained for the home if required by 44305
division (H) of this section. If the owner or vendee does not 44306
possess the Ohio certificate of title, certified copy of the 44307
certificate of title, or memorandum certificate of title at the 44308
time the owner or vendee first registers the home in a county, the 44309
county auditor shall register the home without presentation of the 44310
document, but the owner or vendee shall present the certificate of 44311
title, certified copy of the certificate of title, or memorandum 44312
certificate of title to the county auditor within fourteen days 44313
after the owner or vendee obtains possession of the document. When 44314
the county treasurer receives the tax payment, the county 44315
treasurer shall note by writing or by a stamp on the certificate 44316

of title, certified copy of the certificate of title, or 44317
memorandum certificate of title that the home has been registered 44318
for the current year and that the manufactured home taxes due, if 44319
any, have been paid for the preceding five years and for the 44320
current year. 44321

(4) For subsequent annual registrations, the auditor may 44322
require the owner or vendee in possession to present an Ohio 44323
certificate of title, certified copy of the certificate of title, 44324
or memorandum certificate of title to the county treasurer upon 44325
payment of the manufactured home tax that is due. 44326

(E)(1) Upon the application to transfer ownership of a 44327
manufactured or mobile home for which manufactured home taxes are 44328
paid pursuant to division (C) of section 4503.06 of the Revised 44329
Code the clerk of the court of common pleas shall not issue any 44330
certificate of title that does not contain or have attached both 44331
of the following: 44332

(a) An endorsement of the county treasurer stating that the 44333
home has been registered for each year of ownership and that all 44334
manufactured home taxes imposed pursuant to section 4503.06 of the 44335
Revised Code have been paid or that no tax is due; 44336

(b) An endorsement of the county auditor that the 44337
manufactured home transfer tax imposed pursuant to section 322.06 44338
of the Revised Code and any fees imposed under division (G) of 44339
section 319.54 of the Revised Code have been paid. 44340

(2) If all the taxes have not been paid, the clerk shall 44341
notify the vendee to contact the county treasurer of the county 44342
containing the taxing district in which the home has its situs at 44343
the time of the proposed transfer. The county treasurer shall then 44344
collect all the taxes that are due for the year of the transfer 44345
and all previous years not exceeding a total of five years. The 44346
county treasurer shall distribute that part of the collection owed 44347

to the county treasurer of other counties if the home had its 44348
situs in another county during a particular year when the unpaid 44349
tax became due and payable. The burden to prove the situs of the 44350
home in the years that the taxes were not paid is on the 44351
transferor of the home. Upon payment of the taxes, the county 44352
auditor shall remove all remaining taxes from the manufactured 44353
home tax list and the delinquent manufactured home tax list, and 44354
the county treasurer shall release all liens for such taxes. The 44355
clerk of courts shall issue a certificate of title, free and clear 44356
of all liens for manufactured home taxes, to the transferee of the 44357
home. 44358

(3) Once the transfer is complete and the certificate of 44359
title has been issued, the transferee shall register the 44360
manufactured or mobile home pursuant to division (C) or (D) of 44361
this section with the county auditor of the county containing the 44362
taxing district in which the home remains after the transfer or, 44363
if the home is relocated to another county, with the county 44364
auditor of the county to which the home is relocated. The 44365
transferee need not pay the annual tax for the year of acquisition 44366
if the original owner has already paid the annual tax for that 44367
year. 44368

(F) The county auditor may adopt a permanent registration 44369
system and issue a permanent decal with the first registration as 44370
prescribed by the tax commissioner. 44371

(G) When any manufactured or mobile home required to be 44372
registered by this section is not registered, the county auditor 44373
shall impose a penalty of one hundred dollars upon the owner and 44374
deposit the amount to the credit of the county real estate 44375
assessment fund to be used to pay the costs of administering this 44376
section and section 4503.06 of the Revised Code. If unpaid, the 44377
penalty shall constitute a lien on the home and shall be added by 44378
the county auditor to the manufactured home tax list for 44379

collection. 44380

(H)(1) Except as otherwise provided in this division, before 44381
moving a manufactured or mobile home on public roads from one 44382
address within this state to another address within or outside 44383
this state, the owner of the home shall obtain a relocation 44384
notice, as provided by this section, from the auditor of the 44385
county in which the home is located if the home is currently 44386
subject to taxation pursuant to section 4503.06 of the Revised 44387
Code. The auditor shall charge five dollars for the notice, and 44388
deposit the amount to the credit of the county real estate 44389
assessment fund to be used to pay the costs of administering this 44390
section and section 4503.06 of the Revised Code. The auditor shall 44391
not issue a relocation notice unless all taxes owed on the home 44392
under section 4503.06 of the Revised Code that were first charged 44393
to the home during the period of ownership of the owner seeking 44394
the relocation notice have been paid. If the home is being moved 44395
by a new owner of the home or by a party taking repossession of 44396
the home, the auditor shall not issue a relocation notice unless 44397
all of the taxes due for the preceding five years and for the 44398
current year have been paid. A relocation notice issued by a 44399
county auditor is valid until the last day of December of the year 44400
in which it was issued. 44401

If the home is being moved by a sheriff, police officer, 44402
constable, bailiff, or manufactured home park operator, as defined 44403
in section ~~3733.01~~ 4781.01 of the Revised Code, or any agent of 44404
any of these persons, for purposes of removal from a manufactured 44405
home park and storage, sale, or destruction under section 1923.14 44406
of the Revised Code, the auditor shall issue a relocation notice 44407
without requiring payment of any taxes owed on the home under 44408
section 4503.06 of the Revised Code. 44409

(2) If a manufactured or mobile home is not yet subject to 44410
taxation under section 4503.06 of the Revised Code, the owner of 44411

the home shall obtain a relocation notice from the dealer of the 44412
home. Within thirty days after the manufactured or mobile home is 44413
purchased, the dealer of the home shall provide the auditor of the 44414
county in which the home is to be located written notice of the 44415
name of the purchaser of the home, the registration number or 44416
vehicle identification number of the home, and the address or 44417
location to which the home is to be moved. The county auditor 44418
shall provide to each manufactured and mobile home dealer, without 44419
charge, a supply of relocation notices to be distributed to 44420
purchasers pursuant to this section. 44421

(3) The notice shall be in the form of a one-foot square 44422
yellow sign with the words "manufactured home relocation notice" 44423
printed prominently on it. The name of the owner of the home, the 44424
home's registration number or vehicle identification number, the 44425
county and the address or location to which the home is being 44426
moved, and the county in which the notice is issued shall also be 44427
entered on the notice. 44428

(4) The relocation notice must be attached to the rear of the 44429
home when the home is being moved on a public road. Except as 44430
provided in divisions (H)(1) and (5) of this section, no person 44431
shall drive a motor vehicle moving a manufactured or mobile home 44432
on a public road from one address to another address within this 44433
state unless a relocation notice is attached to the rear of the 44434
home. 44435

(5) If the county auditor determines that a manufactured or 44436
mobile home has been moved without a relocation notice as required 44437
under this division, the auditor shall impose a penalty of one 44438
hundred dollars upon the owner of the home and upon the person who 44439
moved the home and deposit the amount to the credit of the county 44440
real estate assessment fund to pay the costs of administering this 44441
section and section 4503.06 of the Revised Code. If the home was 44442
relocated from one county in this state to another county in this 44443

state and the county auditor of the county to which the home was 44444
relocated imposes the penalty, that county auditor, upon 44445
collection of the penalty, shall cause an amount equal to the 44446
penalty to be transmitted from the county real estate assessment 44447
fund to the county auditor of the county from which the home was 44448
relocated, who shall deposit the amount to the credit of the 44449
county real estate assessment fund. If the penalty on the owner is 44450
unpaid, the penalty shall constitute a lien on the home and the 44451
auditor shall add the penalty to the manufactured home tax list 44452
for collection. If the county auditor determines that a dealer 44453
that has sold a manufactured or mobile home has failed to timely 44454
provide the information required under this division, the auditor 44455
shall impose a penalty upon the dealer in the amount of one 44456
hundred dollars. The penalty shall be credited to the county real 44457
estate assessment fund and used to pay the costs of administering 44458
this section and section 4503.06 of the Revised Code. 44459

(I) Whoever violates division (H)(4) of this section is 44460
guilty of a minor misdemeanor. 44461

Sec. 4503.062. (A) Every operator of a manufactured home 44462
court, or manufactured home park, as defined in section ~~3733.01~~ 44463
4781.01 of the Revised Code, or when there is no operator, every 44464
owner of property used for such purposes on which three or more 44465
manufactured or mobile homes are located, shall keep a register of 44466
all manufactured and mobile homes that make use of the court, 44467
park, or property. The register shall contain all of the 44468
following: 44469

(1) The name of the owner and all inhabitants of each home; 44470

(2) The ages of all inhabitants of each home; 44471

(3) The permanent and temporary post office addresses of all 44472
inhabitants of each home; 44473

(4) The license number of each home;	44474
(5) The state issuing each such license;	44475
(6) The date of arrival and of departure of each home;	44476
(7) The make and model of each home, if known and if either	44477
of the following applies:	44478
(a) The home enters the court, park, or property on or after	44479
January 1, 2003.	44480
(b) Ownership of the home in the court or park, or on the	44481
property, is transferred on or after January 1, 2003.	44482
(B) The register shall be open to inspection by the county	44483
auditor, the county treasurer, agents of the auditor or treasurer,	44484
and all law enforcement agencies at all times.	44485
(C) Any person who fails to comply with this section shall be	44486
fined not less than twenty-five nor more than one hundred dollars.	44487
Sec. 4503.49. (A) As used in this section, "ambulance,"	44488
"ambulette," "emergency medical service organization,"	44489
"nonemergency medical service organization," and "nontransport	44490
vehicle" have the same meanings as in section 4766.01 of the	44491
Revised Code.	44492
(B) Each private emergency medical service organization and	44493
each private nonemergency medical service organization shall apply	44494
to the registrar of motor vehicles for the registration of any	44495
ambulance, ambulette, or nontransport vehicle it owns or leases.	44496
The application shall be accompanied by a copy of the certificate	44497
of licensure issued to the organization by the Ohio <u>state board of</u>	44498
<u>emergency medical, fire, and transportation board services</u> and the	44499
following fees:	44500
(1) The regular license tax as prescribed under section	44501
4503.04 of the Revised Code;	44502

(2) Any local license tax levied under Chapter 4504. of the Revised Code; 44503
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(3) An additional fee of seven dollars and fifty cents. The additional fee shall be for the purpose of compensating the bureau of motor vehicles for additional services required to be performed under this section and shall be transmitted by the registrar to the treasurer of state for deposit in the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code. 44505
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(C) On receipt of a complete application, the registrar shall issue to the applicant the appropriate certificate of registration for the vehicle and do one of the following: 44511
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(1) Issue a set of license plates with a validation sticker and a set of stickers to be attached to the plates as an identification of the vehicle's classification as an ambulance, ambulette, or nontransport vehicle; 44514
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(2) Issue a validation sticker alone when so required by section 4503.191 of the Revised Code. 44518
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Sec. 4503.81. As used in the bus taxation proration and reciprocity agreement authorized by section 4503.80 of the Revised Code, with reference to Ohio, "administrator" means the registrar of motor vehicles. 44520
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The registrar may make such exemptions from the coverage of the agreement as may be appropriate and may make such changes in methods for the reporting of any information required to be furnished to this state pursuant to the agreement as, in ~~his~~ the registrar's judgment, are suitable; provided that any such exemptions or changes shall not be contrary to the purposes set forth in article I of the agreement and shall be made in order to permit the continuance of uniformity of practice among the contracting states with respect to buses. Any such exemption or 44524
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change shall be made by rule adopted under Chapter 119. of the 44533
Revised Code. Unless otherwise provided in any statute withdrawing 44534
this state from participation in the agreement, the governor shall 44535
be the officer to give notice of withdrawal therefrom. 44536

The fees referred to in article IV (a) of the agreement shall 44537
include the fees provided in section 4503.04 of the Revised Code 44538
and the annual tax provided in section ~~4921.18~~ 4921.19 of the 44539
Revised Code. As to the state of Ohio, article V (d) shall mean 44540
that all fleets not subject to this compact shall continue to 44541
enjoy that reciprocity and those privileges extended by virtue of 44542
other provisions of the Revised Code. 44543

Nothing contained herein shall be construed so as to permit a 44544
fleet which is prorating under the laws of another state to avoid 44545
proration under this compact. 44546

The registrar of motor vehicles shall collect a fee of two 44547
dollars per bus for every bus registered under the provisions of 44548
article IV (a) for administration of the agreement, in addition to 44549
the fees provided in article IV (a). 44550

The registrar of motor vehicles shall assess the operator of 44551
buses registered under the provisions of article IV (a) the actual 44552
cost of ~~his~~ the registrar's auditing the accuracy of the fees paid 44553
by the operator in accordance with article IV (a). 44554

The registrar of motor vehicles may renounce the 44555
participation of this state in the bus taxation proration and 44556
reciprocity agreement under article VI of section 4503.80 of the 44557
Revised Code, ~~if he finds~~ after finding that further participation 44558
in the compact is not in the best interests of the state. The 44559
registrar shall set forth ~~his~~ the registrar's reasons in writing 44560
and serve notice of intention to renounce the compact upon the 44561
owner of each registered fleet. ~~He~~ The registrar shall then 44562
certify the renunciation to the governor. 44563

Sec. 4506.01. As used in this chapter:	44564
(A) "Alcohol concentration" means the concentration of alcohol in a person's blood, breath, or urine. When expressed as a percentage, it means grams of alcohol per the following:	44565 44566 44567
(1) One hundred milliliters of whole blood, blood serum, or blood plasma;	44568 44569
(2) Two hundred ten liters of breath;	44570
(3) One hundred milliliters of urine.	44571
(B) "Commercial driver's license" means a license issued in accordance with this chapter that authorizes an individual to drive a commercial motor vehicle.	44572 44573 44574
(C) "Commercial driver's license information system" means the information system established pursuant to the requirements of the "Commercial Motor Vehicle Safety Act of 1986," 100 Stat. 3207-171, 49 U.S.C.A. App. 2701.	44575 44576 44577 44578
(D) Except when used in section 4506.25 of the Revised Code, "commercial motor vehicle" means any motor vehicle designed or used to transport persons or property that meets any of the following qualifications:	44579 44580 44581 44582
(1) Any combination of vehicles with a combined gross vehicle weight rating of twenty-six thousand one pounds or more, provided the gross vehicle weight rating of the vehicle or vehicles being towed is in excess of ten thousand pounds;	44583 44584 44585 44586
(2) Any single vehicle with a gross vehicle weight rating of twenty-six thousand one pounds or more, or any such vehicle towing a vehicle having a gross vehicle weight rating that is not in excess of ten thousand pounds;	44587 44588 44589 44590
(3) Any single vehicle or combination of vehicles that is not a class A or class B vehicle, but is designed to transport sixteen	44591 44592

or more passengers including the driver; 44593

(4) Any school bus with a gross vehicle weight rating of less 44594
than twenty-six thousand one pounds that is designed to transport 44595
fewer than sixteen passengers including the driver; 44596

(5) Is transporting hazardous materials for which placarding 44597
is required under subpart F of 49 C.F.R. part 172, as amended; 44598

(6) Any single vehicle or combination of vehicles that is 44599
designed to be operated and to travel on a public street or 44600
highway and is considered by the federal motor carrier safety 44601
administration to be a commercial motor vehicle, including, but 44602
not limited to, a motorized crane, a vehicle whose function is to 44603
pump cement, a rig for drilling wells, and a portable crane. 44604

(E) "Controlled substance" means all of the following: 44605

(1) Any substance classified as a controlled substance under 44606
the "Controlled Substances Act," 80 Stat. 1242 (1970), 21 U.S.C.A. 44607
802(6), as amended; 44608

(2) Any substance included in schedules I through V of 21 44609
C.F.R. part 1308, as amended; 44610

(3) Any drug of abuse. 44611

(F) "Conviction" means an unvacated adjudication of guilt or 44612
a determination that a person has violated or failed to comply 44613
with the law in a court of original jurisdiction or an authorized 44614
administrative tribunal, an unvacated forfeiture of bail or 44615
collateral deposited to secure the person's appearance in court, a 44616
plea of guilty or nolo contendere accepted by the court, the 44617
payment of a fine or court cost, or violation of a condition of 44618
release without bail, regardless of whether or not the penalty is 44619
rebated, suspended, or probated. 44620

(G) "Disqualification" means any of the following: 44621

(1) The suspension, revocation, or cancellation of a person's 44622

privileges to operate a commercial motor vehicle; 44623

(2) Any withdrawal of a person's privileges to operate a 44624
commercial motor vehicle as the result of a violation of state or 44625
local law relating to motor vehicle traffic control other than 44626
parking, vehicle weight, or vehicle defect violations; 44627

(3) A determination by the federal motor carrier safety 44628
administration that a person is not qualified to operate a 44629
commercial motor vehicle under 49 C.F.R. 391. 44630

(H) "Downgrade" means any of the following, as applicable: 44631

(1) A change in the commercial driver's license holder's 44632
self-certified status as described in division (A)(2) of section 44633
4506.10 of the Revised Code; 44634

(2) A change to a lesser class of vehicle; 44635

(3) Removal of commercial driver's license privileges from 44636
the individual's driver's license. 44637

(I) "Drive" means to drive, operate, or be in physical 44638
control of a motor vehicle. 44639

(J) "Driver" means any person who drives, operates, or is in 44640
physical control of a commercial motor vehicle or is required to 44641
have a commercial driver's license. 44642

(K) "Driver's license" means a license issued by the bureau 44643
of motor vehicles that authorizes an individual to drive. 44644

(L) "Drug of abuse" means any controlled substance, dangerous 44645
drug as defined in section 4729.01 of the Revised Code, or 44646
over-the-counter medication that, when taken in quantities 44647
exceeding the recommended dosage, can result in impairment of 44648
judgment or reflexes. 44649

(M) "Electronic device" includes a cellular telephone, a 44650
personal digital assistant, a pager, a computer, and any other 44651
device used to input, write, send, receive, or read text. 44652

(N) "Eligible unit of local government" means a village, township, or county that has a population of not more than three thousand persons according to the most recent federal census.

(O) "Employer" means any person, including the federal government, any state, and a political subdivision of any state, that owns or leases a commercial motor vehicle or assigns a person to drive such a motor vehicle.

(P) "Endorsement" means an authorization on a person's commercial driver's license that is required to permit the person to operate a specified type of commercial motor vehicle.

(Q) "Farm truck" means a truck controlled and operated by a farmer for use in the transportation to or from a farm, for a distance of not more than one hundred fifty miles, of products of the farm, including livestock and its products, poultry and its products, floricultural and horticultural products, and in the transportation to the farm, from a distance of not more than one hundred fifty miles, of supplies for the farm, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production, and livestock, poultry, and other animals and things used for breeding, feeding, or other purposes connected with the operation of the farm, when the truck is operated in accordance with this division and is not used in the operations of a ~~motor transportation company or private~~ motor carrier, as defined in section 4923.01 of the Revised Code.

(R) "Fatality" means the death of a person as the result of a motor vehicle accident occurring not more than three hundred sixty-five days prior to the date of death.

(S) "Felony" means any offense under federal or state law that is punishable by death or specifically classified as a felony under the law of this state, regardless of the penalty that may be

imposed. 44684

(T) "Foreign jurisdiction" means any jurisdiction other than 44685
a state. 44686

(U) "Gross vehicle weight rating" means the value specified 44687
by the manufacturer as the maximum loaded weight of a single or a 44688
combination vehicle. The gross vehicle weight rating of a 44689
combination vehicle is the gross vehicle weight rating of the 44690
power unit plus the gross vehicle weight rating of each towed 44691
unit. 44692

(V) "Hazardous materials" means any material that has been 44693
designated as hazardous under 49 U.S.C. 5103 and is required to be 44694
placarded under subpart F of 49 C.F.R. part 172 or any quantity of 44695
a material listed as a select agent or toxin in 42 C.F.R. part 73, 44696
as amended. 44697

(W) "Imminent hazard" means the existence of a condition that 44698
presents a substantial likelihood that death, serious illness, 44699
severe personal injury, or a substantial endangerment to health, 44700
property, or the environment may occur before the reasonably 44701
foreseeable completion date of a formal proceeding begun to lessen 44702
the risk of that death, illness, injury, or endangerment. 44703

(X) "Medical variance" means one of the following received by 44704
a driver from the federal motor carrier safety administration that 44705
allows the driver to be issued a medical certificate: 44706

(1) An exemption letter permitting operation of a commercial 44707
motor vehicle under 49 C.F.R. 381, subpart C or 49 C.F.R. 391.64; 44708

(2) A skill performance evaluation certificate permitting 44709
operation of a commercial motor vehicle pursuant to 49 C.F.R. 44710
391.49. 44711

(Y) "Motor vehicle" means a vehicle, machine, tractor, 44712
trailer, or semitrailer propelled or drawn by mechanical power 44713

used on highways, except that such term does not include a 44714
vehicle, machine, tractor, trailer, or semitrailer operated 44715
exclusively on a rail. 44716

(Z) "Out-of-service order" means a declaration by an 44717
authorized enforcement officer of a federal, state, local, 44718
Canadian, or Mexican jurisdiction declaring that a driver, 44719
commercial motor vehicle, or commercial motor carrier operation is 44720
out of service as defined in 49 C.F.R. 390.5. 44721

(AA) "Peace officer" has the same meaning as in section 44722
2935.01 of the Revised Code. 44723

(BB) "Portable tank" means a liquid or gaseous packaging 44724
designed primarily to be loaded onto or temporarily attached to a 44725
vehicle and equipped with skids, mountings, or accessories to 44726
facilitate handling of the tank by mechanical means. 44727

(CC) "Public safety vehicle" has the same meaning as in 44728
divisions (E)(1) and (3) of section 4511.01 of the Revised Code. 44729

(DD) "Recreational vehicle" includes every vehicle that is 44730
defined as a recreational vehicle in section 4501.01 of the 44731
Revised Code and is used exclusively for purposes other than 44732
engaging in business for profit. 44733

(EE) "Residence" means any person's residence determined in 44734
accordance with standards prescribed in rules adopted by the 44735
registrar. 44736

(FF) "School bus" has the same meaning as in section 4511.01 44737
of the Revised Code. 44738

(GG) "Serious traffic violation" means any of the following: 44739

(1) A conviction arising from a single charge of operating a 44740
commercial motor vehicle in violation of any provision of section 44741
4506.03 of the Revised Code; 44742

(2) A violation while operating a commercial motor vehicle of 44743

a law of this state, or any municipal ordinance or county or township resolution prohibiting texting while driving, or any other substantially similar law of another state or political subdivision of another state;

(3) A conviction arising from the operation of any motor vehicle that involves any of the following:

(a) A single charge of any speed in excess of the posted speed limit by fifteen miles per hour or more;

(b) Violation of section 4511.20 or 4511.201 of the Revised Code or any similar ordinance or resolution, or of any similar law of another state or political subdivision of another state;

(c) Violation of a law of this state or an ordinance or resolution relating to traffic control, other than a parking violation, or of any similar law of another state or political subdivision of another state, that results in a fatal accident;

(d) Violation of section 4506.03 of the Revised Code or a substantially similar municipal ordinance or county or township resolution, or of any similar law of another state or political subdivision of another state, that involves the operation of a commercial motor vehicle without a valid commercial driver's license with the proper class or endorsement for the specific vehicle group being operated or for the passengers or type of cargo being transported;

(e) Violation of section 4506.03 of the Revised Code or a substantially similar municipal ordinance or county or township resolution, or of any similar law of another state or political subdivision of another state, that involves the operation of a commercial motor vehicle without a valid commercial driver's license being in the person's possession;

(f) Violation of section 4511.33 or 4511.34 of the Revised Code, or any municipal ordinance or county or township resolution

substantially similar to either of those sections, or any 44775
substantially similar law of another state or political 44776
subdivision of another state; 44777

(g) Violation of any other law of this state or an ordinance 44778
or resolution relating to traffic control, other than a parking 44779
violation, that is determined to be a serious traffic violation by 44780
the United States secretary of transportation and the director 44781
designates as such by rule. 44782

(HH) "State" means a state of the United States and includes 44783
the District of Columbia. 44784

(II) "Tank vehicle" means any commercial motor vehicle that 44785
is designed to transport any liquid and has a maximum capacity 44786
greater than one hundred nineteen gallons or is designed to 44787
transport gaseous materials and has a water capacity greater than 44788
one thousand pounds within a tank that is either permanently or 44789
temporarily attached to the vehicle or its chassis. "Tank vehicle" 44790
does not include any of the following: 44791

(1) Any portable tank having a rated capacity of less than 44792
one thousand gallons; 44793

(2) Tanks used exclusively as a fuel tank for the motor 44794
vehicle to which it is attached; 44795

(3) An empty storage container tank that is not designed for 44796
transportation and that is readily distinguishable from a 44797
transportation tank; 44798

(4) Ready-mix concrete mixers. 44799

(JJ) "Tester" means a person or entity acting pursuant to a 44800
valid agreement entered into pursuant to division (B) of section 44801
4506.09 of the Revised Code. 44802

(KK) "Texting" means manually entering alphanumeric text 44803
into, or reading text from, an electronic device. Texting includes 44804

short message service, e-mail, instant messaging, a command or request to access a world wide web page, or engaging in any other form of electronic text retrieval or entry, for present or future communication. Texting does not include the following:

(1) Reading, selecting, or entering a telephone number, an extension number, or voicemail retrieval codes and commands into an electronic device for the purpose of initiating or receiving a telephone call or using voice commands to initiate or receive a telephone call;

(2) Inputting, selecting, or reading information on a global positioning system or navigation system.

(LL) "Texting while driving" means texting while operating a commercial motor vehicle, with the motor running, including while temporarily stationary because of traffic, a traffic control device, or other momentary delays, but does not include operating a commercial motor vehicle with or without the motor running when the driver has moved the vehicle to the side of, or off, a highway and is stopped in a location where the vehicle can safely remain stationary.

(MM) "United States" means the fifty states and the District of Columbia.

(NN) "Upgrade" means a change in the class of vehicles, endorsements, or self-certified status as described in division (A)(2) of section 4506.10 of the Revised Code, that expands the ability of a current commercial driver's license holder to operate commercial motor vehicles under this chapter;

(OO) "Vehicle" has the same meaning as in section 4511.01 of the Revised Code.

Sec. 4506.03. (A) Except as provided in divisions (B) and (C) of this section, the following shall apply:

(1) No person shall drive a commercial motor vehicle on a highway in this state unless the person holds, and has in the person's possession, a valid commercial driver's license with proper endorsements for the motor vehicle being driven, issued by the registrar of motor vehicles, a valid examiner's commercial driving permit issued under section 4506.13 of the Revised Code, a valid restricted commercial driver's license and waiver for farm-related service industries issued under section 4506.24 of the Revised Code, or a valid commercial driver's license temporary instruction permit issued by the registrar and is accompanied by an authorized state driver's license examiner or tester or a person who has been issued and has in the person's immediate possession a current, valid commercial driver's license with proper endorsements for the motor vehicle being driven.

(2) No person shall be issued a commercial driver's license until the person surrenders to the registrar of motor vehicles all valid licenses issued to the person by another jurisdiction recognized by this state. The registrar shall report the surrender of a license to the issuing authority, together with information that a license is now issued in this state. The registrar shall destroy any such license that is not returned to the issuing authority.

(3) No person who has been a resident of this state for thirty days or longer shall drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.

(B) Nothing in division (A) of this section applies to any qualified person when engaged in the operation of any of the following:

(1) A farm truck;

(2) Fire equipment for a fire department, volunteer or

nonvolunteer fire company, fire district, or joint fire district; 44866

(3) A public safety vehicle used to provide transportation or 44867
emergency medical service for ill or injured persons; 44868

(4) A recreational vehicle; 44869

(5) A commercial motor vehicle within the boundaries of an 44870
eligible unit of local government, if the person is employed by 44871
the eligible unit of local government and is operating the 44872
commercial motor vehicle for the purpose of removing snow or ice 44873
from a roadway by plowing, sanding, or salting, but only if either 44874
the employee who holds a commercial driver's license issued under 44875
this chapter and ordinarily operates a commercial motor vehicle 44876
for these purposes is unable to operate the vehicle, or the 44877
employing eligible unit of local government determines that a snow 44878
or ice emergency exists that requires additional assistance; 44879

(6) A vehicle operated for military purposes by any member or 44880
uniformed employee of the armed forces of the United States or 44881
their reserve components, including the Ohio national guard. This 44882
exception does not apply to United States reserve technicians. 44883

(7) A commercial motor vehicle that is operated for 44884
nonbusiness purposes. "Operated for nonbusiness purposes" means 44885
that the commercial motor vehicle is not used in commerce as 44886
"commerce" is defined in 49 C.F.R. 383.5, as amended, and is not 44887
regulated by the public utilities commission pursuant to Chapter 44888
~~4919~~ 4905., 4921., or 4923. of the Revised Code. 44889

(8) A motor vehicle that is designed primarily for the 44890
transportation of goods and not persons, while that motor vehicle 44891
is being used for the occasional transportation of personal 44892
property by individuals not for compensation and not in the 44893
furtherance of a commercial enterprise; 44894

(9) A police SWAT team vehicle; 44895

(10) A police vehicle used to transport prisoners.	44896
(C) Nothing contained in division (B)(5) of this section shall be construed as preempting or superseding any law, rule, or regulation of this state concerning the safe operation of commercial motor vehicles.	44897 44898 44899 44900
(D) Whoever violates this section is guilty of a misdemeanor of the first degree.	44901 44902
Sec. 4506.22. (A) The director of public safety and the registrar of motor vehicles, subject to approval by the director, may, in accordance with Chapter 119. of the Revised Code, adopt any rules necessary to carry out this chapter.	44903 44904 44905 44906
(B) The department of public safety may do all of the following:	44907 44908
(1) Enter into or make any agreements, arrangements, or declarations necessary to carry out this chapter;	44909 44910
(2) Charge a fee for all publications that is equal to the cost of printing the publications.	44911 44912
(C) Nothing in this chapter shall be construed to restrict the authority of the public utilities commission specified in Chapters <u>4905.</u> , <u>4921.</u> and <u>4923.</u> of the Revised Code regarding safety rules applicable to motor carriers.	44913 44914 44915 44916
Sec. 4506.25. (A) As used in this section, "commercial motor vehicle" means any self-propelled or towed vehicle used on public highways in intrastate or interstate commerce to transport passengers or property that meets any of the following specifications:	44917 44918 44919 44920 44921
(1) The vehicle has a gross vehicle weight rating or gross combination weight rating of ten thousand one pounds or more.	44922 44923
(2) The vehicle is designed to transport sixteen or more	44924

passengers, including the driver. 44925

(3) The vehicle is used in the transportation of hazardous 44926
materials in a quantity requiring placarding under the regulations 44927
issued by the United States secretary of transportation under the 44928
"Hazardous Materials Transportation Act," 88 Stat. 2156 (1975), 49 44929
U.S.C.A. 1801, as amended. 44930

(B) The registrar of motor vehicles shall disqualify any 44931
person from operating a commercial motor vehicle who receives a 44932
notice of a conviction for violation of an out-of-service order 44933
issued under rules of the public utilities commission adopted 44934
pursuant to ~~section 4919.79, 4921.04~~ Chapter 4905., 4921., or 44935
~~4923.20~~ 4923. of the Revised Code, or a conviction for a violation 44936
of the same or similar laws of another state or jurisdiction 44937
applicable to vehicles in regulated commerce. 44938

Sec. 4507.01. (A) As used in this chapter, "motor vehicle," 44939
"motorized bicycle," "state," "owner," "operator," "chauffeur," 44940
and "highways" have the same meanings as in section 4501.01 of the 44941
Revised Code. 44942

"Driver's license" means a class D license issued to any 44943
person to operate a motor vehicle or motor-driven cycle, other 44944
than a commercial motor vehicle, and includes "probationary 44945
license," "restricted license," and any operator's or chauffeur's 44946
license issued before January 1, 1990. 44947

"Probationary license" means the license issued to any person 44948
between sixteen and eighteen years of age to operate a motor 44949
vehicle. 44950

"Restricted license" means the license issued to any person 44951
to operate a motor vehicle subject to conditions or restrictions 44952
imposed by the registrar of motor vehicles. 44953

"Commercial driver's license" means the license issued to a 44954

person under Chapter 4506. of the Revised Code to operate a 44955
commercial motor vehicle. 44956

"Commercial motor vehicle" has the same meaning as in section 44957
4506.01 of the Revised Code. 44958

"Motorized bicycle license" means the license issued under 44959
section 4511.521 of the Revised Code to any person to operate a 44960
motorized bicycle including a "probationary motorized bicycle 44961
license." 44962

"Probationary motorized bicycle license" means the license 44963
issued under section 4511.521 of the Revised Code to any person 44964
between fourteen and sixteen years of age to operate a motorized 44965
bicycle. 44966

"Identification card" means a card issued under sections 44967
4507.50 and 4507.51 of the Revised Code. 44968

"Resident" means a person who, in accordance with standards 44969
prescribed in rules adopted by the registrar, resides in this 44970
state on a permanent basis. 44971

"Temporary resident" means a person who, in accordance with 44972
standards prescribed in rules adopted by the registrar, resides in 44973
this state on a temporary basis. 44974

(B) In the administration of this chapter and Chapter 4506. 44975
of the Revised Code, the registrar has the same authority as is 44976
conferred on the registrar by section 4501.02 of the Revised Code. 44977
Any act of an authorized deputy registrar of motor vehicles under 44978
direction of the registrar is deemed the act of the registrar. 44979

To carry out this chapter, the registrar shall appoint such 44980
deputy registrars in each county as are necessary. 44981

The registrar also shall provide at each place where an 44982
application for a driver's or commercial driver's license or 44983
identification card may be made the necessary equipment to take a 44984

color photograph of the applicant for such license or card as 44985
required under section 4506.11 or 4507.06 of the Revised Code, and 44986
to conduct the vision screenings required by section 4507.12 of 44987
the Revised Code, and equipment to laminate licenses, motorized 44988
bicycle licenses, and identification cards as required by sections 44989
4507.13, 4507.52, and 4511.521 of the Revised Code. 44990

The registrar shall assign one or more deputy registrars to 44991
any driver's license examining station operated under the 44992
supervision of the ~~state highway patrol~~ director of public safety, 44993
whenever the registrar considers such assignment possible. Space 44994
shall be provided in the driver's license examining station for 44995
any such deputy registrar so assigned. The deputy registrars shall 44996
not exercise the powers conferred by such sections upon the 44997
registrar, unless they are specifically authorized to exercise 44998
such powers by such sections. 44999

(C) No agent for any insurance company, writing automobile 45000
insurance, shall be appointed deputy registrar, and any such 45001
appointment is void. No deputy registrar shall in any manner 45002
solicit any form of automobile insurance, nor in any manner 45003
advise, suggest, or influence any licensee or applicant for 45004
license for or against any kind or type of automobile insurance, 45005
insurance company, or agent, nor have the deputy registrar's 45006
office directly connected with the office of any automobile 45007
insurance agent, nor impart any information furnished by any 45008
applicant for a license or identification card to any person, 45009
except the registrar. This division shall not apply to any 45010
nonprofit corporation appointed deputy registrar. 45011

(D) The registrar shall immediately remove a deputy registrar 45012
who violates the requirements of this chapter. 45013

(E) The registrar shall periodically solicit bids and enter 45014
into a contract for the provision of laminating equipment and 45015
laminating materials to the registrar and all deputy registrars. 45016

The registrar shall not consider any bid that does not provide for 45017
the supplying of both laminating equipment and laminating 45018
materials. The laminating materials selected shall contain a 45019
security feature so that any tampering with the laminating 45020
material covering a license or identification card is readily 45021
apparent. In soliciting bids and entering into a contract for the 45022
provision of laminating equipment and laminating materials, the 45023
registrar shall observe all procedures required by law. 45024

Sec. 4507.011. (A) Each deputy registrar assigned to a 45025
driver's license examining station by the registrar of motor 45026
vehicles as provided in section 4507.01 of the Revised Code shall 45027
remit to the ~~superintendent~~ director of the ~~state highway patrol~~ 45028
public safety a rental fee equal to the percentage of space 45029
occupied by the deputy registrar in the driver's license examining 45030
station multiplied by the rental fee paid for the entire driver's 45031
license examining station plus a pro rata share of all utility 45032
costs. All such moneys received by the ~~superintendent~~ director 45033
shall be deposited in the state treasury to the credit of the 45034
registrar rental fund, which is hereby created. The moneys in the 45035
fund shall be used by the ~~state highway patrol~~ department of 45036
public safety only to pay the rent and expenses of the driver's 45037
license examining stations. All investment earnings of the fund 45038
shall be credited to the fund. 45039

(B) Each deputy registrar assigned to a bureau of motor 45040
vehicles' location shall reimburse the registrar a monthly 45041
building rental fee, including applicable utility charges. All 45042
such moneys received by the registrar shall be deposited into the 45043
state bureau of motor vehicles fund created in section 4501.25 of 45044
the Revised Code. 45045

Sec. 4507.12. (A) Except as provided in division (C) of 45046
section 4507.10 of the Revised Code, each person applying for the 45047

renewal of a driver's license shall submit to a screening of the 45048
person's vision before the license may be renewed. The vision 45049
screening shall be conducted at the office of the deputy registrar 45050
receiving the application for license renewal. 45051

(B) When the results of a vision screening given under 45052
division (A) of this section indicate that the vision of the 45053
person examined meets the standards required for licensing, the 45054
deputy registrar may renew the person's driver's license at that 45055
time. 45056

(C) When the results of a vision screening given under 45057
division (A) of this section indicate that the vision of the 45058
person screened may not meet the standards required for licensing, 45059
the deputy registrar shall not renew the person's driver's license 45060
at that time but shall refer the person to a driver's license 45061
examiner appointed by the ~~superintendent~~ director of ~~the state~~ 45062
~~highway patrol~~ public safety under section ~~5503.21~~ 5502.05 of the 45063
Revised Code for a further examination of the person's vision. 45064
When a person referred to a driver's license examiner by a deputy 45065
registrar does not meet the vision standards required for 45066
licensing, the driver's license examiner shall retain the person's 45067
operator's or chauffeur's license and shall immediately notify the 45068
registrar of motor vehicles of that fact. No driver's license 45069
shall be issued to any such person, until the person's vision is 45070
corrected to meet the standards required for licensing and the 45071
person passes the vision screening required by this section. Any 45072
person who operates a motor vehicle on a highway, or on any public 45073
or private property used by the public for purposes of vehicular 45074
travel or parking, during the time the person's driver's license 45075
is held by a driver's license examiner under this division, shall 45076
be deemed to be operating a motor vehicle in violation of division 45077
(A) of section 4510.12 of the Revised Code. 45078

(D) The registrar shall adopt rules and shall provide any 45079
forms necessary to properly conduct vision screenings at the 45080
office of a deputy registrar. 45081

(E) No person conducting vision screenings under this section 45082
shall be personally liable for damages for injury or loss to 45083
persons or property and for death caused by the operation of a 45084
motor vehicle by any person whose driver's license was renewed by 45085
the deputy registrar under division (B) of this section. 45086

Sec. 4507.51. (A)(1) Every application for an identification 45087
card or duplicate shall be made on a form furnished by the 45088
registrar of motor vehicles, shall be signed by the applicant, and 45089
by the applicant's parent or guardian if the applicant is under 45090
eighteen years of age, and shall contain the following information 45091
pertaining to the applicant: name, date of birth, sex, general 45092
description including the applicant's height, weight, hair color, 45093
and eye color, address, and social security number. The 45094
application also shall state whether an applicant wishes to 45095
certify willingness to make an anatomical gift under section 45096
2108.05 of the Revised Code and shall include information about 45097
the requirements of sections 2108.01 to 2108.29 of the Revised 45098
Code that apply to persons who are less than eighteen years of 45099
age. The statement regarding willingness to make such a donation 45100
shall be given no consideration in the decision of whether to 45101
issue an identification card. Each applicant shall be photographed 45102
in color at the time of making application. 45103

(2)(a) The application also shall state whether the applicant 45104
has executed a valid durable power of attorney for health care 45105
pursuant to sections 1337.11 to 1337.17 of the Revised Code or has 45106
executed a declaration governing the use or continuation, or the 45107
withholding or withdrawal, of life-sustaining treatment pursuant 45108
to sections 2133.01 to 2133.15 of the Revised Code and, if the 45109

applicant has executed either type of instrument, whether the 45110
applicant wishes the identification card issued to indicate that 45111
the applicant has executed the instrument. 45112

(b) On and after October 7, 2009, the application also shall 45113
state whether the applicant is a veteran, active duty, or 45114
reservist of the armed forces of the United States and, if the 45115
applicant is such, whether the applicant wishes the identification 45116
card issued to indicate that the applicant is a veteran, active 45117
duty, or reservist of the armed forces of the United States by a 45118
military designation on the identification card. 45119

(3) The registrar or deputy registrar, in accordance with 45120
section 3503.11 of the Revised Code, shall register as an elector 45121
any person who applies for an identification card or duplicate if 45122
the applicant is eligible and wishes to be registered as an 45123
elector. The decision of an applicant whether to register as an 45124
elector shall be given no consideration in the decision of whether 45125
to issue the applicant an identification card or duplicate. 45126

(B) The application for an identification card or duplicate 45127
shall be filed in the office of the registrar or deputy registrar. 45128
Each applicant shall present documentary evidence as required by 45129
the registrar of the applicant's age and identity, and the 45130
applicant shall swear that all information given is true. An 45131
identification card issued by the department of rehabilitation and 45132
correction under section 5120.59 of the Revised Code or an 45133
identification card issued by the department of youth services 45134
under section 5139.511 of the Revised Code shall be sufficient 45135
documentary evidence under this division upon verification of the 45136
applicant's social security number by the registrar or a deputy 45137
registrar. Upon issuing an identification card under this section 45138
for a person who has been issued an identification card under 45139
section 5120.59 or section 5139.511 of the Revised Code, the 45140
registrar or deputy registrar shall destroy the identification 45141

card issued under section 5120.59 or section 5139.511 of the 45142
Revised Code. 45143

All applications for an identification card or duplicate 45144
shall be filed in duplicate, and if submitted to a deputy 45145
registrar, a copy shall be forwarded to the registrar. The 45146
registrar shall prescribe rules for the manner in which a deputy 45147
registrar is to file and maintain applications and other records. 45148
The registrar shall maintain a suitable, indexed record of all 45149
applications denied and cards issued or canceled. 45150

(C) In addition to any other information it contains, on and 45151
after the date that is fifteen months after ~~the effective date of~~ 45152
~~this amendment~~ April 7, 2009, the form furnished by the registrar 45153
of motor vehicles for an application for an identification card or 45154
duplicate shall inform applicants that the applicant must present 45155
a copy of the applicant's DD-214 or an equivalent document in 45156
order to qualify to have the card or duplicate indicate that the 45157
applicant is an honorably discharged veteran of the armed forces 45158
of the United States based on a request made pursuant to division 45159
(A)(2)(b) of this section. 45160

Sec. 4508.02. (A)(1) The director of public safety, subject 45161
to Chapter 119. of the Revised Code, shall adopt and prescribe 45162
such rules concerning the administration and enforcement of this 45163
chapter as are necessary to protect the public. The director shall 45164
inspect the school facilities and equipment of applicants and 45165
licensees and examine applicants for instructor's licenses. 45166

(2) The director shall adopt rules governing online driver 45167
education courses that may be completed via the internet to 45168
satisfy the classroom instruction under division (C) of this 45169
section. The rules shall do all of the following: 45170

(a) Establish standards that an online driver training 45171
enterprise must satisfy to be licensed to offer an online driver 45172

education course via the internet, including, at a minimum, proven 45173
expertise in providing online driver education and an acceptable 45174
infrastructure capable of providing secure online driver education 45175
in accord with advances in internet technology; 45176

(b) Establish content requirements that an online driver 45177
education course must satisfy to be approved as equivalent to 45178
twenty-four hours of in-person classroom instruction; 45179

(c) Allow an enrolled applicant to begin the required eight 45180
hours of actual behind-the-wheel instruction upon being issued a 45181
certificate of enrollment by a licensed online driver training 45182
enterprise; 45183

(d) Establish any other requirements necessary to regulate 45184
online driver education. 45185

(B) The director shall administer and enforce this chapter. 45186

(C) The rules shall require twenty-four hours of in-person 45187
classroom instruction or completion of an approved, equivalent 45188
online driver education course offered via the internet by a 45189
licensed online driver training enterprise, and eight hours of 45190
actual behind-the-wheel instruction conducted on public streets 45191
and highways of this state for all beginning drivers of 45192
noncommercial motor vehicles who are under age eighteen. 45193

(D) The rules shall state the minimum hours for classroom and 45194
behind-the-wheel instruction required for beginning drivers of 45195
commercial trucks, commercial cars, buses, and commercial 45196
tractors, trailers, and ~~semi-trailers~~ semitrailers. 45197

(E)(1) The department of public safety may charge a fee to 45198
each online driver training enterprise in an amount sufficient to 45199
pay the actual expenses the department incurs in the regulation of 45200
online driver education courses. 45201

(2) The department shall print and supply to each licensed 45202

online driver training enterprise certificates to be used for 45203
certifying an applicant's enrollment in an approved online driver 45204
education course and a separate certificate to be issued upon 45205
successful completion of an approved online driver education 45206
course. The certificates shall be numbered serially. The 45207
department may charge a fee to each online driver training 45208
enterprise per certificate supplied to pay the actual expenses the 45209
department incurs in printing and supplying the certificates. 45210

Sec. 4510.037. (A) When the registrar of motor vehicles 45211
determines that the total points charged against any person under 45212
section 4510.036 of the Revised Code exceed five, the registrar 45213
shall send a warning letter to the person at the person's last 45214
known address by regular mail. The warning letter shall list the 45215
reported violations that are the basis of the points charged, list 45216
the number of points charged for each violation, and outline the 45217
suspension provisions of this section. 45218

(B) When the registrar determines that the total points 45219
charged against any person under section 4510.036 of the Revised 45220
Code within any two-year period beginning on the date of the first 45221
conviction within the two-year period is equal to twelve or more, 45222
the registrar shall send a written notice to the person at the 45223
person's last known address by regular mail. The notice shall list 45224
the reported violations that are the basis of the points charged, 45225
list the number of points charged for each violation, and state 45226
that, because the total number of points charged against the 45227
person within the applicable two-year period is equal to twelve or 45228
more, the registrar is imposing a class D suspension of the 45229
person's driver's or commercial driver's license or permit or 45230
nonresident operating privileges for the period of time specified 45231
in division (B)(4) of section 4510.02 of the Revised Code. The 45232
notice also shall state that the suspension is effective on the 45233
twentieth day after the mailing of the notice, unless the person 45234

files a petition appealing the determination and suspension in the 45235
municipal court, county court, or, if the person is under the age 45236
of eighteen, the juvenile division of the court of common pleas in 45237
whose jurisdiction the person resides or, if the person is not a 45238
resident of this state, in the Franklin county municipal court or 45239
juvenile division of the Franklin county court of common pleas. By 45240
filing the appeal of the determination and suspension, the person 45241
agrees to pay the cost of the proceedings in the appeal of the 45242
determination and suspension and alleges that the person can show 45243
cause why the person's driver's or commercial driver's license or 45244
permit or nonresident operating privileges should not be 45245
suspended. 45246

(C)(1) Any person against whom at least two but less than 45247
twelve points have been charged under section 4510.036 of the 45248
Revised Code may enroll in a course of remedial driving 45249
instruction that is approved by the director of public safety. 45250
Upon the person's completion of an approved course of remedial 45251
driving instruction, the person may apply to the registrar on a 45252
form prescribed by the registrar for a credit of two points on the 45253
person's driving record. Upon receipt of the application and proof 45254
of completion of the approved remedial driving course, the 45255
registrar shall approve the two-point credit. The registrar shall 45256
not approve any credits for a person who completes an approved 45257
course of remedial driving instruction pursuant to a judge's order 45258
under section 4510.02 of the Revised Code. 45259

(2) In any three-year period, the registrar shall approve 45260
only one two-point credit on a person's driving record under 45261
division (C)(1) of this section. The registrar shall approve not 45262
more than five two-point credits on a person's driving record 45263
under division (C)(1) of this section during that person's 45264
lifetime. 45265

(D) When a judge of a court of record suspends a person's 45266

driver's or commercial driver's license or permit or nonresident 45267
operating privilege and charges points against the person under 45268
section 4510.036 of the Revised Code for the offense that resulted 45269
in the suspension, the registrar shall credit that period of 45270
suspension against the time of any subsequent suspension imposed 45271
under this section for which those points were used to impose the 45272
subsequent suspension. When a United States district court that 45273
has jurisdiction within this state suspends a person's driver's or 45274
commercial driver's license or permit or nonresident operating 45275
privileges pursuant to the "Assimilative Crimes Act," 102 Stat. 45276
4381 (1988), 18 U.S.C.A. 13, as amended, the district court 45277
prepares an abstract pursuant to section 4510.031 of the Revised 45278
Code, and the district court charges points against the person 45279
under section 4510.036 of the Revised Code for the offense that 45280
resulted in the suspension, the registrar shall credit the period 45281
of suspension imposed by the district court against the time of 45282
any subsequent suspension imposed under this section for which the 45283
points were used to impose the subsequent suspension. 45284

(E) The registrar, upon the written request of a licensee who 45285
files a petition under division (B) of this section, shall furnish 45286
the licensee a certified copy of the registrar's record of the 45287
convictions and bond forfeitures of the person. This record shall 45288
include the name, address, and date of birth of the licensee; the 45289
name of the court in which each conviction or bail forfeiture took 45290
place; the nature of the offense that was the basis of the 45291
conviction or bond forfeiture; and any other information that the 45292
registrar considers necessary. If the record indicates that twelve 45293
points or more have been charged against the person within a 45294
two-year period, it is prima-facie evidence that the person is a 45295
repeat traffic offender, and the registrar shall suspend the 45296
person's driver's or commercial driver's license or permit or 45297
nonresident operating privilege pursuant to division (B) of this 45298
section. 45299

In hearing the petition and determining whether the person 45300
filing the petition has shown cause why the person's driver's or 45301
commercial driver's license or permit or nonresident operating 45302
privilege should not be suspended, the court shall decide the 45303
issue on the record certified by the registrar and any additional 45304
relevant, competent, and material evidence that either the 45305
registrar or the person whose license is sought to be suspended 45306
submits. 45307

(F) If a petition is filed under division (B) of this section 45308
in a county court, the prosecuting attorney of the county in which 45309
the case is pending shall represent the registrar in the 45310
proceedings, except that, if the petitioner resides in a municipal 45311
corporation within the jurisdiction of the county court, the city 45312
director of law, village solicitor, or other chief legal officer 45313
of the municipal corporation shall represent the registrar in the 45314
proceedings. If a petition is filed under division (B) of this 45315
section in a municipal court, the registrar shall be represented 45316
in the resulting proceedings as provided in section 1901.34 of the 45317
Revised Code. 45318

(G) If the court determines from the evidence submitted that 45319
a person who filed a petition under division (B) of this section 45320
has failed to show cause why the person's driver's or commercial 45321
driver's license or permit or nonresident operating privileges 45322
should not be suspended, the court shall assess against the person 45323
the cost of the proceedings in the appeal of the determination and 45324
suspension and shall impose the applicable suspension under this 45325
section or suspend all or a portion of the suspension and impose 45326
any conditions upon the person that the court considers proper or 45327
impose upon the person a community control sanction pursuant to 45328
section 2929.15 or 2929.25 of the Revised Code. If the court 45329
determines from the evidence submitted that a person who filed a 45330
petition under division (B) of this section has shown cause why 45331

the person's driver's or commercial driver's license or permit or 45332
nonresident operating privileges should not be suspended, the 45333
costs of the appeal proceeding shall be paid out of the county 45334
treasury of the county in which the proceedings were held. 45335

(H) Any person whose driver's or commercial driver's license 45336
or permit or nonresident operating privileges are suspended under 45337
this section is not entitled to apply for or receive a new 45338
driver's or commercial driver's license or permit or to request or 45339
be granted nonresident operating privileges during the effective 45340
period of the suspension. 45341

(I) Upon the termination of any suspension or other penalty 45342
imposed under this section involving the surrender of license or 45343
permit and upon the request of the person whose license or permit 45344
was suspended or surrendered, the registrar shall return the 45345
license or permit to the person upon determining that the person 45346
has complied with all provisions of section 4510.038 of the 45347
Revised Code or, if the registrar destroyed the license or permit 45348
pursuant to section 4510.52 of the Revised Code, shall reissue the 45349
person's license or permit. 45350

(J) Any person whose driver's or commercial driver's license 45351
or permit or nonresident operating privileges are suspended as a 45352
repeat traffic offender under this section and who, during the 45353
suspension, operates any motor vehicle upon any public roads and 45354
highways is guilty of driving under a twelve-point suspension, a 45355
misdemeanor of the first degree. The court shall sentence the 45356
offender to a minimum term of three days in jail. No court shall 45357
suspend the first three days of jail time imposed pursuant to this 45358
division. 45359

(K) The registrar, in accordance with specific statutory 45360
authority, may suspend the privilege of driving a motor vehicle on 45361
the public roads and highways of this state that is granted to 45362
nonresidents by section 4507.04 of the Revised Code. 45363

(L) Any (1) Except as provided in division (L)(2) of this section, any course of remedial driving instruction the director of public safety approves under this section shall require its students to attend at least fifty per cent of the course in person. ~~The~~ and the director shall not approve any course of remedial driving instruction that permits its students to take more than fifty per cent of the course in any other manner, including via video teleconferencing or the internet.

(2) The director may approve a course of remedial instruction that permits students to take the entire course via video teleconferencing. In accordance with division (C) of this section, upon receiving an application with a certificate or other proof of completion of a course approved under this division, the registrar shall approve the two-point reduction.

Sec. 4510.038. (A) Any person whose driver's or commercial driver's license or permit is suspended or who is granted limited driving privileges under section 4510.037, under division (H) of section 4511.19, or under section 4510.07 of the Revised Code for a violation of a municipal ordinance that is substantially equivalent to division (B) of section 4511.19 of the Revised Code is not eligible to retain the license, or to have the driving privileges reinstated, until each of the following has occurred:

(1) The person successfully completes a course of remedial driving instruction approved by the director of public safety. A minimum of twenty-five per cent of the number of hours of instruction included in the course shall be devoted to instruction on driver attitude.

The course also shall devote a number of hours to instruction in the area of alcohol and drugs and the operation of vehicles. The instruction shall include, but not be limited to, a review of the laws governing the operation of a vehicle while under the

influence of alcohol, drugs, or a combination of them, the dangers 45395
of operating a vehicle while under the influence of alcohol, 45396
drugs, or a combination of them, and other information relating to 45397
the operation of vehicles and the consumption of alcoholic 45398
beverages and use of drugs. The director, in consultation with the 45399
director of alcohol and drug addiction services, shall prescribe 45400
the content of the instruction. The number of hours devoted to the 45401
area of alcohol and drugs and the operation of vehicles shall 45402
comprise a minimum of twenty-five per cent of the number of hours 45403
of instruction included in the course. 45404

(2) The person is examined in the manner provided for in 45405
section 4507.20 of the Revised Code, and found by the registrar of 45406
motor vehicles to be qualified to operate a motor vehicle; 45407

(3) The person gives and maintains proof of financial 45408
responsibility, in accordance with section 4509.45 of the Revised 45409
Code. 45410

(B) ~~Any~~ (1) Except as provided in division (B)(2) of this 45411
section, any course of remedial driving instruction the director 45412
of public safety approves under this section shall require its 45413
students to attend at least fifty per cent of the course in 45414
person. ~~The~~ and the director shall not approve any course of 45415
remedial driving instruction that permits its students to take 45416
more than fifty per cent of the course in any other manner, 45417
including via video teleconferencing or the internet. 45418

(2) The director may approve a course of remedial instruction 45419
that permits students to take the entire course via video 45420
teleconferencing or the internet. 45421

Sec. 4511.191. (A)(1) As used in this section: 45422

(a) "Physical control" has the same meaning as in section 45423
4511.194 of the Revised Code. 45424

(b) "Alcohol monitoring device" means any device that 45425
provides for continuous alcohol monitoring, any ignition interlock 45426
device, any immobilizing or disabling device other than an 45427
ignition interlock device that is constantly available to monitor 45428
the concentration of alcohol in a person's system, or any other 45429
device that provides for the automatic testing and periodic 45430
reporting of alcohol consumption by a person and that a court 45431
orders a person to use as a sanction imposed as a result of the 45432
person's conviction of or plea of guilty to an offense. 45433

(2) Any person who operates a vehicle, streetcar, or 45434
trackless trolley upon a highway or any public or private property 45435
used by the public for vehicular travel or parking within this 45436
state or who is in physical control of a vehicle, streetcar, or 45437
trackless trolley shall be deemed to have given consent to a 45438
chemical test or tests of the person's whole blood, blood serum or 45439
plasma, breath, or urine to determine the alcohol, drug of abuse, 45440
controlled substance, metabolite of a controlled substance, or 45441
combination content of the person's whole blood, blood serum or 45442
plasma, breath, or urine if arrested for a violation of division 45443
(A) or (B) of section 4511.19 of the Revised Code, section 45444
4511.194 of the Revised Code or a substantially equivalent 45445
municipal ordinance, or a municipal OVI ordinance. 45446

(3) The chemical test or tests under division (A)(2) of this 45447
section shall be administered at the request of a law enforcement 45448
officer having reasonable grounds to believe the person was 45449
operating or in physical control of a vehicle, streetcar, or 45450
trackless trolley in violation of a division, section, or 45451
ordinance identified in division (A)(2) of this section. The law 45452
enforcement agency by which the officer is employed shall 45453
designate which of the tests shall be administered. 45454

(4) Any person who is dead or unconscious, or who otherwise 45455
is in a condition rendering the person incapable of refusal, shall 45456

be deemed to have consented as provided in division (A)(2) of this 45457
section, and the test or tests may be administered, subject to 45458
sections 313.12 to 313.16 of the Revised Code. 45459

(5)(a) If a law enforcement officer arrests a person for a 45460
violation of division (A) or (B) of section 4511.19 of the Revised 45461
Code, section 4511.194 of the Revised Code or a substantially 45462
equivalent municipal ordinance, or a municipal OVI ordinance and 45463
if the person if convicted would be required to be sentenced under 45464
division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised 45465
Code, the law enforcement officer shall request the person to 45466
submit, and the person shall submit, to a chemical test or tests 45467
of the person's whole blood, blood serum or plasma, breath, or 45468
urine for the purpose of determining the alcohol, drug of abuse, 45469
controlled substance, metabolite of a controlled substance, or 45470
combination content of the person's whole blood, blood serum or 45471
plasma, breath, or urine. A law enforcement officer who makes a 45472
request pursuant to this division that a person submit to a 45473
chemical test or tests is not required to advise the person of the 45474
consequences of submitting to, or refusing to submit to, the test 45475
or tests and is not required to give the person the form described 45476
in division (B) of section 4511.192 of the Revised Code, but the 45477
officer shall advise the person at the time of the arrest that if 45478
the person refuses to take a chemical test the officer may employ 45479
whatever reasonable means are necessary to ensure that the person 45480
submits to a chemical test of the person's whole blood or blood 45481
serum or plasma. The officer shall also advise the person at the 45482
time of the arrest that the person may have an independent 45483
chemical test taken at the person's own expense. Divisions (A)(3) 45484
and (4) of this section apply to the administration of a chemical 45485
test or tests pursuant to this division. 45486

(b) If a person refuses to submit to a chemical test upon a 45487
request made pursuant to division (A)(5)(a) of this section, the 45488

law enforcement officer who made the request may employ whatever 45489
reasonable means are necessary to ensure that the person submits 45490
to a chemical test of the person's whole blood or blood serum or 45491
plasma. A law enforcement officer who acts pursuant to this 45492
division to ensure that a person submits to a chemical test of the 45493
person's whole blood or blood serum or plasma is immune from 45494
criminal and civil liability based upon a claim for assault and 45495
battery or any other claim for the acts, unless the officer so 45496
acted with malicious purpose, in bad faith, or in a wanton or 45497
reckless manner. 45498

(B)(1) Upon receipt of the sworn report of a law enforcement 45499
officer who arrested a person for a violation of division (A) or 45500
(B) of section 4511.19 of the Revised Code, section 4511.194 of 45501
the Revised Code or a substantially equivalent municipal 45502
ordinance, or a municipal OVI ordinance that was completed and 45503
sent to the registrar of motor vehicles and a court pursuant to 45504
section 4511.192 of the Revised Code in regard to a person who 45505
refused to take the designated chemical test, the registrar shall 45506
enter into the registrar's records the fact that the person's 45507
driver's or commercial driver's license or permit or nonresident 45508
operating privilege was suspended by the arresting officer under 45509
this division and that section and the period of the suspension, 45510
as determined under this section. The suspension shall be subject 45511
to appeal as provided in section 4511.197 of the Revised Code. The 45512
suspension shall be for whichever of the following periods 45513
applies: 45514

(a) Except when division (B)(1)(b), (c), or (d) of this 45515
section applies and specifies a different class or length of 45516
suspension, the suspension shall be a class C suspension for the 45517
period of time specified in division (B)(3) of section 4510.02 of 45518
the Revised Code. 45519

(b) If the arrested person, within six years of the date on 45520

which the person refused the request to consent to the chemical 45521
test, had refused one previous request to consent to a chemical 45522
test or had been convicted of or pleaded guilty to one violation 45523
of division (A) or (B) of section 4511.19 of the Revised Code or 45524
one other equivalent offense, the suspension shall be a class B 45525
suspension imposed for the period of time specified in division 45526
(B)(2) of section 4510.02 of the Revised Code. 45527

(c) If the arrested person, within six years of the date on 45528
which the person refused the request to consent to the chemical 45529
test, had refused two previous requests to consent to a chemical 45530
test, had been convicted of or pleaded guilty to two violations of 45531
division (A) or (B) of section 4511.19 of the Revised Code or 45532
other equivalent offenses, or had refused one previous request to 45533
consent to a chemical test and also had been convicted of or 45534
pleaded guilty to one violation of division (A) or (B) of section 45535
4511.19 of the Revised Code or other equivalent offenses, which 45536
violation or offense arose from an incident other than the 45537
incident that led to the refusal, the suspension shall be a class 45538
A suspension imposed for the period of time specified in division 45539
(B)(1) of section 4510.02 of the Revised Code. 45540

(d) If the arrested person, within six years of the date on 45541
which the person refused the request to consent to the chemical 45542
test, had refused three or more previous requests to consent to a 45543
chemical test, had been convicted of or pleaded guilty to three or 45544
more violations of division (A) or (B) of section 4511.19 of the 45545
Revised Code or other equivalent offenses, or had refused a number 45546
of previous requests to consent to a chemical test and also had 45547
been convicted of or pleaded guilty to a number of violations of 45548
division (A) or (B) of section 4511.19 of the Revised Code or 45549
other equivalent offenses that cumulatively total three or more 45550
such refusals, convictions, and guilty pleas, the suspension shall 45551
be for five years. 45552

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (B)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (B)(1) of this section.

(C)(1) Upon receipt of the sworn report of the law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance that was completed and sent to the registrar and a court pursuant to section 4511.192 of the Revised Code in regard to a person whose test results indicate that the person's whole blood, blood serum or plasma, breath, or urine contained at least the concentration of alcohol specified in division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code or at least the concentration of a listed controlled substance or a listed metabolite of a controlled substance specified in division (A)(1)(j) of section 4511.19 of the Revised Code, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or

permit or nonresident operating privilege was suspended by the 45585
arresting officer under this division and section 4511.192 of the 45586
Revised Code and the period of the suspension, as determined under 45587
divisions (C)(1)(a) to (d) of this section. The suspension shall 45588
be subject to appeal as provided in section 4511.197 of the 45589
Revised Code. The suspension described in this division does not 45590
apply to, and shall not be imposed upon, a person arrested for a 45591
violation of section 4511.194 of the Revised Code or a 45592
substantially equivalent municipal ordinance who submits to a 45593
designated chemical test. The suspension shall be for whichever of 45594
the following periods applies: 45595

(a) Except when division (C)(1)(b), (c), or (d) of this 45596
section applies and specifies a different period, the suspension 45597
shall be a class E suspension imposed for the period of time 45598
specified in division (B)(5) of section 4510.02 of the Revised 45599
Code. 45600

(b) The suspension shall be a class C suspension for the 45601
period of time specified in division (B)(3) of section 4510.02 of 45602
the Revised Code if the person has been convicted of or pleaded 45603
guilty to, within six years of the date the test was conducted, 45604
one violation of division (A) or (B) of section 4511.19 of the 45605
Revised Code or one other equivalent offense. 45606

(c) If, within six years of the date the test was conducted, 45607
the person has been convicted of or pleaded guilty to two 45608
violations of a statute or ordinance described in division 45609
(C)(1)(b) of this section, the suspension shall be a class B 45610
suspension imposed for the period of time specified in division 45611
(B)(2) of section 4510.02 of the Revised Code. 45612

(d) If, within six years of the date the test was conducted, 45613
the person has been convicted of or pleaded guilty to more than 45614
two violations of a statute or ordinance described in division 45615
(C)(1)(b) of this section, the suspension shall be a class A 45616

suspension imposed for the period of time specified in division 45617
(B)(1) of section 4510.02 of the Revised Code. 45618

(2) The registrar shall terminate a suspension of the 45619
driver's or commercial driver's license or permit of a resident or 45620
of the operating privilege of a nonresident, or a denial of a 45621
driver's or commercial driver's license or permit, imposed 45622
pursuant to division (C)(1) of this section upon receipt of notice 45623
that the person has entered a plea of guilty to, or that the 45624
person has been convicted after entering a plea of no contest to, 45625
operating a vehicle in violation of section 4511.19 of the Revised 45626
Code or in violation of a municipal OVI ordinance, if the offense 45627
for which the conviction is had or the plea is entered arose from 45628
the same incident that led to the suspension or denial. 45629

The registrar shall credit against any judicial suspension of 45630
a person's driver's or commercial driver's license or permit or 45631
nonresident operating privilege imposed pursuant to section 45632
4511.19 of the Revised Code, or pursuant to section 4510.07 of the 45633
Revised Code for a violation of a municipal OVI ordinance, any 45634
time during which the person serves a related suspension imposed 45635
pursuant to division (C)(1) of this section. 45636

(D)(1) A suspension of a person's driver's or commercial 45637
driver's license or permit or nonresident operating privilege 45638
under this section for the time described in division (B) or (C) 45639
of this section is effective immediately from the time at which 45640
the arresting officer serves the notice of suspension upon the 45641
arrested person. Any subsequent finding that the person is not 45642
guilty of the charge that resulted in the person being requested 45643
to take the chemical test or tests under division (A) of this 45644
section does not affect the suspension. 45645

(2) If a person is arrested for operating a vehicle, 45646
streetcar, or trackless trolley in violation of division (A) or 45647
(B) of section 4511.19 of the Revised Code or a municipal OVI 45648

ordinance, or for being in physical control of a vehicle, 45649
streetcar, or trackless trolley in violation of section 4511.194 45650
of the Revised Code or a substantially equivalent municipal 45651
ordinance, regardless of whether the person's driver's or 45652
commercial driver's license or permit or nonresident operating 45653
privilege is or is not suspended under division (B) or (C) of this 45654
section or Chapter 4510. of the Revised Code, the person's initial 45655
appearance on the charge resulting from the arrest shall be held 45656
within five days of the person's arrest or the issuance of the 45657
citation to the person, subject to any continuance granted by the 45658
court pursuant to section 4511.197 of the Revised Code regarding 45659
the issues specified in that division. 45660

(E) When it finally has been determined under the procedures 45661
of this section and sections 4511.192 to 4511.197 of the Revised 45662
Code that a nonresident's privilege to operate a vehicle within 45663
this state has been suspended, the registrar shall give 45664
information in writing of the action taken to the motor vehicle 45665
administrator of the state of the person's residence and of any 45666
state in which the person has a license. 45667

(F) At the end of a suspension period under this section, 45668
under section 4511.194, section 4511.196, or division (G) of 45669
section 4511.19 of the Revised Code, or under section 4510.07 of 45670
the Revised Code for a violation of a municipal OVI ordinance and 45671
upon the request of the person whose driver's or commercial 45672
driver's license or permit was suspended and who is not otherwise 45673
subject to suspension, cancellation, or disqualification, the 45674
registrar shall return the driver's or commercial driver's license 45675
or permit to the person upon the occurrence of all of the 45676
conditions specified in divisions (F)(1) and (2) of this section: 45677

(1) A showing that the person has proof of financial 45678
responsibility, a policy of liability insurance in effect that 45679
meets the minimum standards set forth in section 4509.51 of the 45680

Revised Code, or proof, to the satisfaction of the registrar, that 45681
the person is able to respond in damages in an amount at least 45682
equal to the minimum amounts specified in section 4509.51 of the 45683
Revised Code. 45684

(2) Subject to the limitation contained in division (F)(3) of 45685
this section, payment by the person to the registrar or an 45686
eligible deputy registrar of a license reinstatement fee of four 45687
hundred seventy-five dollars, which fee shall be deposited in the 45688
state treasury and credited as follows: 45689

(a) One hundred twelve dollars and fifty cents shall be 45690
credited to the statewide treatment and prevention fund created by 45691
section 4301.30 of the Revised Code. Money credited to the fund 45692
under this section shall be used for purposes identified in the 45693
comprehensive statewide alcohol and drug addiction services plan 45694
developed under section 3793.04 of the Revised Code. 45695

(b) Seventy-five dollars shall be credited to the reparations 45696
fund created by section 2743.191 of the Revised Code. 45697

(c) Thirty-seven dollars and fifty cents shall be credited to 45698
the indigent drivers alcohol treatment fund, which is hereby 45699
established in the state treasury. Except as otherwise provided in 45700
division (F)(2)(c) of this section, moneys in the fund shall be 45701
distributed by the department of alcohol and drug addiction 45702
services to the county indigent drivers alcohol treatment funds, 45703
the county juvenile indigent drivers alcohol treatment funds, and 45704
the municipal indigent drivers alcohol treatment funds that are 45705
required to be established by counties and municipal corporations 45706
pursuant to division (H) of this section, and shall be used only 45707
to pay the cost of an alcohol and drug addiction treatment program 45708
attended by an offender or juvenile traffic offender who is 45709
ordered to attend an alcohol and drug addiction treatment program 45710
by a county, juvenile, or municipal court judge and who is 45711
determined by the county, juvenile, or municipal court judge not 45712

to have the means to pay for the person's attendance at the 45713
program or to pay the costs specified in division (H)(4) of this 45714
section in accordance with that division. In addition, a county, 45715
juvenile, or municipal court judge may use moneys in the county 45716
indigent drivers alcohol treatment fund, county juvenile indigent 45717
drivers alcohol treatment fund, or municipal indigent drivers 45718
alcohol treatment fund to pay for the cost of the continued use of 45719
an alcohol monitoring device as described in divisions (H)(3) and 45720
(4) of this section. Moneys in the fund that are not distributed 45721
to a county indigent drivers alcohol treatment fund, a county 45722
juvenile indigent drivers alcohol treatment fund, or a municipal 45723
indigent drivers alcohol treatment fund under division (H) of this 45724
section because the director of alcohol and drug addiction 45725
services does not have the information necessary to identify the 45726
county or municipal corporation where the offender or juvenile 45727
offender was arrested may be transferred by the director of budget 45728
and management to the statewide treatment and prevention fund 45729
created by section 4301.30 of the Revised Code, upon certification 45730
of the amount by the director of alcohol and drug addiction 45731
services. 45732

(d) Seventy-five dollars shall be credited to the Ohio 45733
rehabilitation services commission established by section 3304.12 45734
of the Revised Code, to the services for rehabilitation fund, 45735
which is hereby established. The fund shall be used to match 45736
available federal matching funds where appropriate, and for any 45737
other purpose or program of the commission to rehabilitate people 45738
with disabilities to help them become employed and independent. 45739

(e) Seventy-five dollars shall be deposited into the state 45740
treasury and credited to the drug abuse resistance education 45741
programs fund, which is hereby established, to be used by the 45742
attorney general for the purposes specified in division (F)(4) of 45743
this section. 45744

(f) Thirty dollars shall be credited to the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code. 45745
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(g) Twenty dollars shall be credited to the trauma and emergency medical services ~~grants~~ fund created by section 4513.263 of the Revised Code. 45748
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(h) Fifty dollars shall be credited to the indigent drivers interlock and alcohol monitoring fund, which is hereby established in the state treasury. Moneys in the fund shall be distributed by the department of public safety to the county indigent drivers interlock and alcohol monitoring funds, the county juvenile indigent drivers interlock and alcohol monitoring funds, and the municipal indigent drivers interlock and alcohol monitoring funds that are required to be established by counties and municipal corporations pursuant to this section, and shall be used only to pay the cost of an immobilizing or disabling device, including a certified ignition interlock device, or an alcohol monitoring device used by an offender or juvenile offender who is ordered to use the device by a county, juvenile, or municipal court judge and who is determined by the county, juvenile, or municipal court judge not to have the means to pay for the person's use of the device. 45751
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(3) If a person's driver's or commercial driver's license or permit is suspended under this section, under section 4511.196 or division (G) of section 4511.19 of the Revised Code, under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance or under any combination of the suspensions described in division (F)(3) of this section, and if the suspensions arise from a single incident or a single set of facts and circumstances, the person is liable for payment of, and shall be required to pay to the registrar or an eligible deputy registrar, only one reinstatement fee of four hundred seventy-five dollars. The 45767
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reinstatement fee shall be distributed by the bureau in accordance 45777
with division (F)(2) of this section. 45778

(4) The attorney general shall use amounts in the drug abuse 45779
resistance education programs fund to award grants to law 45780
enforcement agencies to establish and implement drug abuse 45781
resistance education programs in public schools. Grants awarded to 45782
a law enforcement agency under this section shall be used by the 45783
agency to pay for not more than fifty per cent of the amount of 45784
the salaries of law enforcement officers who conduct drug abuse 45785
resistance education programs in public schools. The attorney 45786
general shall not use more than six per cent of the amounts the 45787
attorney general's office receives under division (F)(2)(e) of 45788
this section to pay the costs it incurs in administering the grant 45789
program established by division (F)(2)(e) of this section and in 45790
providing training and materials relating to drug abuse resistance 45791
education programs. 45792

The attorney general shall report to the governor and the 45793
general assembly each fiscal year on the progress made in 45794
establishing and implementing drug abuse resistance education 45795
programs. These reports shall include an evaluation of the 45796
effectiveness of these programs. 45797

(5) In addition to the reinstatement fee under this section, 45798
if the person pays the reinstatement fee to a deputy registrar, 45799
the deputy registrar shall collect a service fee of ten dollars to 45800
compensate the deputy registrar for services performed under this 45801
section. The deputy registrar shall retain eight dollars of the 45802
service fee and shall transmit the reinstatement fee, plus two 45803
dollars of the service fee, to the registrar in the manner the 45804
registrar shall determine. 45805

(G) Suspension of a commercial driver's license under 45806
division (B) or (C) of this section shall be concurrent with any 45807
period of disqualification under section 3123.611 or 4506.16 of 45808

the Revised Code or any period of suspension under section 3123.58 45809
of the Revised Code. No person who is disqualified for life from 45810
holding a commercial driver's license under section 4506.16 of the 45811
Revised Code shall be issued a driver's license under Chapter 45812
4507. of the Revised Code during the period for which the 45813
commercial driver's license was suspended under division (B) or 45814
(C) of this section. No person whose commercial driver's license 45815
is suspended under division (B) or (C) of this section shall be 45816
issued a driver's license under Chapter 4507. of the Revised Code 45817
during the period of the suspension. 45818

(H)(1) Each county shall establish an indigent drivers 45819
alcohol treatment fund, each county shall establish a juvenile 45820
indigent drivers alcohol treatment fund, and each municipal 45821
corporation in which there is a municipal court shall establish an 45822
indigent drivers alcohol treatment fund. All revenue that the 45823
general assembly appropriates to the indigent drivers alcohol 45824
treatment fund for transfer to a county indigent drivers alcohol 45825
treatment fund, a county juvenile indigent drivers alcohol 45826
treatment fund, or a municipal indigent drivers alcohol treatment 45827
fund, all portions of fees that are paid under division (F) of 45828
this section and that are credited under that division to the 45829
indigent drivers alcohol treatment fund in the state treasury for 45830
a county indigent drivers alcohol treatment fund, a county 45831
juvenile indigent drivers alcohol treatment fund, or a municipal 45832
indigent drivers alcohol treatment fund, all portions of 45833
additional costs imposed under section 2949.094 of the Revised 45834
Code that are specified for deposit into a county, county 45835
juvenile, or municipal indigent drivers alcohol treatment fund by 45836
that section, and all portions of fines that are specified for 45837
deposit into a county or municipal indigent drivers alcohol 45838
treatment fund by section 4511.193 of the Revised Code shall be 45839
deposited into that county indigent drivers alcohol treatment 45840
fund, county juvenile indigent drivers alcohol treatment fund, or 45841

municipal indigent drivers alcohol treatment fund. The portions of 45842
the fees paid under division (F) of this section that are to be so 45843
deposited shall be determined in accordance with division (H)(2) 45844
of this section. Additionally, all portions of fines that are paid 45845
for a violation of section 4511.19 of the Revised Code or of any 45846
prohibition contained in Chapter 4510. of the Revised Code, and 45847
that are required under section 4511.19 or any provision of 45848
Chapter 4510. of the Revised Code to be deposited into a county 45849
indigent drivers alcohol treatment fund or municipal indigent 45850
drivers alcohol treatment fund shall be deposited into the 45851
appropriate fund in accordance with the applicable division of the 45852
section or provision. 45853

(2) That portion of the license reinstatement fee that is 45854
paid under division (F) of this section and that is credited under 45855
that division to the indigent drivers alcohol treatment fund shall 45856
be deposited into a county indigent drivers alcohol treatment 45857
fund, a county juvenile indigent drivers alcohol treatment fund, 45858
or a municipal indigent drivers alcohol treatment fund as follows: 45859

(a) Regarding a suspension imposed under this section, that 45860
portion of the fee shall be deposited as follows: 45861

(i) If the fee is paid by a person who was charged in a 45862
county court with the violation that resulted in the suspension or 45863
in the imposition of the court costs, the portion shall be 45864
deposited into the county indigent drivers alcohol treatment fund 45865
under the control of that court; 45866

(ii) If the fee is paid by a person who was charged in a 45867
juvenile court with the violation that resulted in the suspension 45868
or in the imposition of the court costs, the portion shall be 45869
deposited into the county juvenile indigent drivers alcohol 45870
treatment fund established in the county served by the court; 45871

(iii) If the fee is paid by a person who was charged in a 45872

municipal court with the violation that resulted in the suspension 45873
or in the imposition of the court costs, the portion shall be 45874
deposited into the municipal indigent drivers alcohol treatment 45875
fund under the control of that court. 45876

(b) Regarding a suspension imposed under section 4511.19 of 45877
the Revised Code or under section 4510.07 of the Revised Code for 45878
a violation of a municipal OVI ordinance, that portion of the fee 45879
shall be deposited as follows: 45880

(i) If the fee is paid by a person whose license or permit 45881
was suspended by a county court, the portion shall be deposited 45882
into the county indigent drivers alcohol treatment fund under the 45883
control of that court; 45884

(ii) If the fee is paid by a person whose license or permit 45885
was suspended by a municipal court, the portion shall be deposited 45886
into the municipal indigent drivers alcohol treatment fund under 45887
the control of that court. 45888

(3) Expenditures from a county indigent drivers alcohol 45889
treatment fund, a county juvenile indigent drivers alcohol 45890
treatment fund, or a municipal indigent drivers alcohol treatment 45891
fund shall be made only upon the order of a county, juvenile, or 45892
municipal court judge and only for payment of the cost of an 45893
assessment or the cost of the attendance at an alcohol and drug 45894
addiction treatment program of a person who is convicted of, or 45895
found to be a juvenile traffic offender by reason of, a violation 45896
of division (A) of section 4511.19 of the Revised Code or a 45897
substantially similar municipal ordinance, who is ordered by the 45898
court to attend the alcohol and drug addiction treatment program, 45899
and who is determined by the court to be unable to pay the cost of 45900
the assessment or the cost of attendance at the treatment program 45901
or for payment of the costs specified in division (H)(4) of this 45902
section in accordance with that division. The alcohol and drug 45903
addiction services board or the board of alcohol, drug addiction, 45904

and mental health services established pursuant to section 340.02 45905
or 340.021 of the Revised Code and serving the alcohol, drug 45906
addiction, and mental health service district in which the court 45907
is located shall administer the indigent drivers alcohol treatment 45908
program of the court. When a court orders an offender or juvenile 45909
traffic offender to obtain an assessment or attend an alcohol and 45910
drug addiction treatment program, the board shall determine which 45911
program is suitable to meet the needs of the offender or juvenile 45912
traffic offender, and when a suitable program is located and space 45913
is available at the program, the offender or juvenile traffic 45914
offender shall attend the program designated by the board. A 45915
reasonable amount not to exceed five per cent of the amounts 45916
credited to and deposited into the county indigent drivers alcohol 45917
treatment fund, the county juvenile indigent drivers alcohol 45918
treatment fund, or the municipal indigent drivers alcohol 45919
treatment fund serving every court whose program is administered 45920
by that board shall be paid to the board to cover the costs it 45921
incurs in administering those indigent drivers alcohol treatment 45922
programs. 45923

In addition, upon exhaustion of moneys in the indigent 45924
drivers interlock and alcohol monitoring fund for the use of an 45925
alcohol monitoring device, a county, juvenile, or municipal court 45926
judge may use moneys in the county indigent drivers alcohol 45927
treatment fund, county juvenile indigent drivers alcohol treatment 45928
fund, or municipal indigent drivers alcohol treatment fund in the 45929
following manners: 45930

(a) If the source of the moneys was an appropriation of the 45931
general assembly, a portion of a fee that was paid under division 45932
(F) of this section, a portion of a fine that was specified for 45933
deposit into the fund by section 4511.193 of the Revised Code, or 45934
a portion of a fine that was paid for a violation of section 45935
4511.19 of the Revised Code or of a provision contained in Chapter 45936

4510. of the Revised Code that was required to be deposited into 45937
the fund, to pay for the continued use of an alcohol monitoring 45938
device by an offender or juvenile traffic offender, in conjunction 45939
with a treatment program approved by the department of alcohol and 45940
drug addiction services, when such use is determined clinically 45941
necessary by the treatment program and when the court determines 45942
that the offender or juvenile traffic offender is unable to pay 45943
all or part of the daily monitoring or cost of the device; 45944

(b) If the source of the moneys was a portion of an 45945
additional court cost imposed under section 2949.094 of the 45946
Revised Code, to pay for the continued use of an alcohol 45947
monitoring device by an offender or juvenile traffic offender when 45948
the court determines that the offender or juvenile traffic 45949
offender is unable to pay all or part of the daily monitoring or 45950
cost of the device. The moneys may be used for a device as 45951
described in this division if the use of the device is in 45952
conjunction with a treatment program approved by the department of 45953
alcohol and drug addiction services, when the use of the device is 45954
determined clinically necessary by the treatment program, but the 45955
use of a device is not required to be in conjunction with a 45956
treatment program approved by the department in order for the 45957
moneys to be used for the device as described in this division. 45958

(4) If a county, juvenile, or municipal court determines, in 45959
consultation with the alcohol and drug addiction services board or 45960
the board of alcohol, drug addiction, and mental health services 45961
established pursuant to section 340.02 or 340.021 of the Revised 45962
Code and serving the alcohol, drug addiction, and mental health 45963
district in which the court is located, that the funds in the 45964
county indigent drivers alcohol treatment fund, the county 45965
juvenile indigent drivers alcohol treatment fund, or the municipal 45966
indigent drivers alcohol treatment fund under the control of the 45967
court are more than sufficient to satisfy the purpose for which 45968

the fund was established, as specified in divisions (H)(1) to (3) 45969
of this section, the court may declare a surplus in the fund. If 45970
the court declares a surplus in the fund, the court may expend the 45971
amount of the surplus in the fund for: 45972

(a) Alcohol and drug abuse assessment and treatment of 45973
persons who are charged in the court with committing a criminal 45974
offense or with being a delinquent child or juvenile traffic 45975
offender and in relation to whom both of the following apply: 45976

(i) The court determines that substance abuse was a 45977
contributing factor leading to the criminal or delinquent activity 45978
or the juvenile traffic offense with which the person is charged. 45979

(ii) The court determines that the person is unable to pay 45980
the cost of the alcohol and drug abuse assessment and treatment 45981
for which the surplus money will be used. 45982

(b) All or part of the cost of purchasing alcohol monitoring 45983
devices to be used in conjunction with division (H)(3) of this 45984
section, upon exhaustion of moneys in the indigent drivers 45985
interlock and alcohol monitoring fund for the use of an alcohol 45986
monitoring device. 45987

(5) For the purpose of determining as described in division 45988
(F)(2)(c) of this section whether an offender does not have the 45989
means to pay for the offender's attendance at an alcohol and drug 45990
addiction treatment program or whether an alleged offender or 45991
delinquent child is unable to pay the costs specified in division 45992
(H)(4) of this section, the court shall use the indigent client 45993
eligibility guidelines and the standards of indigency established 45994
by the state public defender to make the determination. 45995

(6) The court shall identify and refer any alcohol and drug 45996
addiction program that is not certified under section 3793.06 of 45997
the Revised Code and that is interested in receiving amounts from 45998
the surplus in the fund declared under division (H)(4) of this 45999

section to the department of alcohol and drug addiction services 46000
in order for the program to become a certified alcohol and drug 46001
addiction program. The department shall keep a record of applicant 46002
referrals received pursuant to this division and shall submit a 46003
report on the referrals each year to the general assembly. If a 46004
program interested in becoming certified makes an application to 46005
become certified pursuant to section 3793.06 of the Revised Code, 46006
the program is eligible to receive surplus funds as long as the 46007
application is pending with the department. The department of 46008
alcohol and drug addiction services must offer technical 46009
assistance to the applicant. If the interested program withdraws 46010
the certification application, the department must notify the 46011
court, and the court shall not provide the interested program with 46012
any further surplus funds. 46013

(7)(a) Each alcohol and drug addiction services board and 46014
board of alcohol, drug addiction, and mental health services 46015
established pursuant to section 340.02 or 340.021 of the Revised 46016
Code shall submit to the department of alcohol and drug addiction 46017
services an annual report for each indigent drivers alcohol 46018
treatment fund in that board's area. 46019

(b) The report, which shall be submitted not later than sixty 46020
days after the end of the state fiscal year, shall provide the 46021
total payment that was made from the fund, including the number of 46022
indigent consumers that received treatment services and the number 46023
of indigent consumers that received an alcohol monitoring device. 46024
The report shall identify the treatment program and expenditure 46025
for an alcohol monitoring device for which that payment was made. 46026
The report shall include the fiscal year balance of each indigent 46027
drivers alcohol treatment fund located in that board's area. In 46028
the event that a surplus is declared in the fund pursuant to 46029
division (H)(4) of this section, the report also shall provide the 46030
total payment that was made from the surplus moneys and identify 46031

the treatment program and expenditure for an alcohol monitoring 46032
device for which that payment was made. The department may require 46033
additional information necessary to complete the comprehensive 46034
statewide alcohol and drug addiction services plan as required by 46035
section 3793.04 of the Revised Code. 46036

(c) If a board is unable to obtain adequate information to 46037
develop the report to submit to the department for a particular 46038
indigent drivers alcohol treatment fund, the board shall submit a 46039
report detailing the effort made in obtaining the information. 46040

(I)(1) Each county shall establish an indigent drivers 46041
interlock and alcohol monitoring fund and a juvenile indigent 46042
drivers interlock and alcohol treatment fund, and each municipal 46043
corporation in which there is a municipal court shall establish an 46044
indigent drivers interlock and alcohol monitoring fund. All 46045
revenue that the general assembly appropriates to the indigent 46046
drivers interlock and alcohol monitoring fund for transfer to a 46047
county indigent drivers interlock and alcohol monitoring fund, a 46048
county juvenile indigent drivers interlock and alcohol monitoring 46049
fund, or a municipal indigent drivers interlock and alcohol 46050
monitoring fund, all portions of license reinstatement fees that 46051
are paid under division (F)(2) of this section and that are 46052
credited under that division to the indigent drivers interlock and 46053
alcohol monitoring fund in the state treasury, and all portions of 46054
fines that are paid under division (G) of section 4511.19 of the 46055
Revised Code and that are credited by division (G)(5)(e) of that 46056
section to the indigent drivers interlock and alcohol monitoring 46057
fund in the state treasury shall be deposited in the appropriate 46058
fund in accordance with division (I)(2) of this section. 46059

(2) That portion of the license reinstatement fee that is 46060
paid under division (F) of this section and that portion of the 46061
fine paid under division (G) of section 4511.19 of the Revised 46062
Code and that is credited under either division to the indigent 46063

drivers interlock and alcohol monitoring fund shall be deposited 46064
into a county indigent drivers interlock and alcohol monitoring 46065
fund, a county juvenile indigent drivers interlock and alcohol 46066
monitoring fund, or a municipal indigent drivers interlock and 46067
alcohol monitoring fund as follows: 46068

(a) If the fee or fine is paid by a person who was charged in 46069
a county court with the violation that resulted in the suspension 46070
or fine, the portion shall be deposited into the county indigent 46071
drivers interlock and alcohol monitoring fund under the control of 46072
that court. 46073

(b) If the fee or fine is paid by a person who was charged in 46074
a juvenile court with the violation that resulted in the 46075
suspension or fine, the portion shall be deposited into the county 46076
juvenile indigent drivers interlock and alcohol monitoring fund 46077
established in the county served by the court. 46078

(c) If the fee or fine is paid by a person who was charged in 46079
a municipal court with the violation that resulted in the 46080
suspension, the portion shall be deposited into the municipal 46081
indigent drivers interlock and alcohol monitoring fund under the 46082
control of that court. 46083

Sec. 4511.78. (A) As used in this section: 46084

(1) "Mass transit system" means any county transit system, 46085
regional transit authority, regional transit commission, 46086
municipally owned transportation system, mass transit company 46087
operating exclusively within the territorial limits of a municipal 46088
corporation, or within such limits and the territorial limits of 46089
municipal corporations immediately contiguous to such municipal 46090
corporation, and any common passenger carrier ~~certified by the~~ 46091
~~public utilities commission~~, that provides transportation for 46092
children to or from a school session or a school function. 46093

(2) "Bus" means every motor vehicle designed for carrying 46094
more than nine passengers and used for the transportation of 46095
persons, but does not mean any school bus as defined in section 46096
4511.01 of the Revised Code. 46097

(B) Whenever a mass transit system transports children to or 46098
from a school session or school function, the mass transit system 46099
shall provide for: 46100

(1) Periodic safety inspections of all buses used to provide 46101
transportation service. The inspections shall be based on rules 46102
adopted by the public utilities commission under Chapters 4921. 46103
and 4923. of the Revised Code to ensure the safety of operation of 46104
~~motor transportation companies and private~~ motor carriers. 46105

(2) The safety training of all drivers operating buses used 46106
to provide transportation service; 46107

(3) The equipping of every bus with outside rear-view mirrors 46108
meeting the motor carrier regulations for bus equipment adopted by 46109
the federal highway administration. No exclusions from this 46110
requirement granted under the federal regulations shall be 46111
considered exclusions for the purposes of this division. 46112

(C) Except as otherwise provided in this division, whoever 46113
violates this section is guilty of a minor misdemeanor. If, within 46114
one year of the offense, the offender previously has been 46115
convicted of or pleaded guilty to one predicate motor vehicle or 46116
traffic offense, whoever violates this section is guilty of a 46117
misdemeanor of the fourth degree. If, within one year of the 46118
offense, the offender previously has been convicted of two or more 46119
predicate motor vehicle or traffic offenses, whoever violates this 46120
section is guilty of a misdemeanor of the third degree. 46121

Sec. 4513.263. (A) As used in this section and in section 46122
4513.99 of the Revised Code: 46123

(1) "Automobile" means any commercial tractor, passenger car, commercial car, or truck that is required to be factory-equipped with an occupant restraining device for the operator or any passenger by regulations adopted by the United States secretary of transportation pursuant to the "National Traffic and Motor Vehicle Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392.

(2) "Occupant restraining device" means a seat safety belt, shoulder belt, harness, or other safety device for restraining a person who is an operator of or passenger in an automobile and that satisfies the minimum federal vehicle safety standards established by the United States department of transportation.

(3) "Passenger" means any person in an automobile, other than its operator, who is occupying a seating position for which an occupant restraining device is provided.

(4) "Commercial tractor," "passenger car," and "commercial car" have the same meanings as in section 4501.01 of the Revised Code.

(5) "Vehicle" and "motor vehicle," as used in the definitions of the terms set forth in division (A)(4) of this section, have the same meanings as in section 4511.01 of the Revised Code.

(6) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim, as defined in section 2307.71 of the Revised Code, and an asbestos claim, as defined in section 2307.91 of the Revised Code, but does not include a civil action for damages for breach of contract or another agreement between persons.

(B) No person shall do any of the following:

(1) Operate an automobile on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device, or operate a school bus that

has an occupant restraining device installed for use in its operator's seat unless that person is wearing all of the available elements of the device, as properly adjusted;

(2) Operate an automobile on any street or highway unless each passenger in the automobile who is subject to the requirement set forth in division (B)(3) of this section is wearing all of the available elements of a properly adjusted occupant restraining device;

(3) Occupy, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device;

(4) Operate a taxicab on any street or highway unless all factory-equipped occupant restraining devices in the taxicab are maintained in usable form.

(C) Division (B)(3) of this section does not apply to a person who is required by section 4511.81 of the Revised Code to be secured in a child restraint device or booster seat. Division (B)(1) of this section does not apply to a person who is an employee of the United States postal service or of a newspaper home delivery service, during any period in which the person is engaged in the operation of an automobile to deliver mail or newspapers to addressees. Divisions (B)(1) and (3) of this section do not apply to a person who has an affidavit signed by a physician licensed to practice in this state under Chapter 4731. of the Revised Code or a chiropractor licensed to practice in this state under Chapter 4734. of the Revised Code that states that the person has a physical impairment that makes use of an occupant restraining device impossible or impractical.

(D) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile

being operated on any street or highway to stop the automobile for 46186
the sole purpose of determining whether a violation of division 46187
(B) of this section has been or is being committed or for the sole 46188
purpose of issuing a ticket, citation, or summons for a violation 46189
of that nature or causing the arrest of or commencing a 46190
prosecution of a person for a violation of that nature, and no law 46191
enforcement officer shall view the interior or visually inspect 46192
any automobile being operated on any street or highway for the 46193
sole purpose of determining whether a violation of that nature has 46194
been or is being committed. 46195

(E) All fines collected for violations of division (B) of 46196
this section, or for violations of any ordinance or resolution of 46197
a political subdivision that is substantively comparable to that 46198
division, shall be forwarded to the treasurer of state for deposit 46199
~~as follows:~~ 46200

~~(1) Eight per cent shall be deposited into the elementary 46201
school program fund, which is hereby created in the state 46202
treasury, and shall be used by the department of public safety to 46203
establish and administer elementary school programs that encourage 46204
seat safety belt use. 46205~~

~~(2) Two per cent shall be deposited into the occupational 46206
licensing and regulatory fund created by section 4743.05 of the 46207
Revised Code. 46208~~

~~(3) Thirty six per cent, plus into the state treasury to the 46209
credit of the trauma and emergency medical services fund, which is 46210
hereby created. In addition, sixty cents of each fee collected 46211
under sections 4501.34, 4503.26, 4505.14, 4506.08, and 4509.05, 46212
plus on and after October 1, 2009, sixty cents of each fee 46213
collected under sections 4505.14 and 4519.63 of the Revised Code 46214
as specified in those sections, plus the portion of the driver's 46215
license reinstatement fee described in division (F)(2)(g) of 46216
section 4511.191 of the Revised Code, plus all fees collected 46217~~

under section 4765.11 of the Revised Code, plus all fines imposed 46218
under section 4765.55 of the Revised Code, and plus five per cent 46219
of fines and moneys arising from bail forfeitures as directed by 46220
section 5503.04 of the Revised Code, also shall be deposited into 46221
the trauma and emergency medical services fund, ~~which is hereby~~ 46222
~~created in the state treasury, and.~~ All money deposited into the 46223
trauma and emergency medical services fund shall be used by the 46224
department of public safety for the administration and operation 46225
of the division of emergency medical services and the state board 46226
of emergency medical, fire, and transportation services, ~~except~~ 46227
~~that the~~ and by the state board of emergency medical, fire, and 46228
transportation services to make grants, in accordance with section 46229
4765.07 of the Revised Code and rules the board adopts under 46230
section 4765.11 of the Revised Code. The director of budget and 46231
management may transfer excess money from the trauma and emergency 46232
medical services fund to the state highway safety fund if the 46233
director of public safety determines that the amount of money in 46234
the trauma and emergency medical services fund exceeds the amount 46235
required to cover such costs incurred by the emergency medical 46236
services agency and the grants made by the state board of 46237
emergency medical, fire, and transportation services and requests 46238
the director of budget and management to make the transfer. 46239

~~(4) Fifty four per cent shall be deposited into the trauma~~ 46240
~~and emergency medical services grants fund, which is hereby~~ 46241
~~created in the state treasury, and shall be used by the state~~ 46242
~~board of emergency medical services to make grants, in accordance~~ 46243
~~with section 4765.07 of the Revised Code and rules the board~~ 46244
~~adopts under section 4765.11 of the Revised Code.~~ 46245

(F)(1) Subject to division (F)(2) of this section, the 46246
failure of a person to wear all of the available elements of a 46247
properly adjusted occupant restraining device in violation of 46248
division (B)(1) or (3) of this section or the failure of a person 46249

to ensure that each minor who is a passenger of an automobile 46250
being operated by that person is wearing all of the available 46251
elements of a properly adjusted occupant restraining device in 46252
violation of division (B)(2) of this section shall not be 46253
considered or used by the trier of fact in a tort action as 46254
evidence of negligence or contributory negligence. But, the trier 46255
of fact may determine based on evidence admitted consistent with 46256
the Ohio Rules of Evidence that the failure contributed to the 46257
harm alleged in the tort action and may diminish a recovery of 46258
compensatory damages that represents noneconomic loss, as defined 46259
in section 2307.011 of the Revised Code, in a tort action that 46260
could have been recovered but for the plaintiff's failure to wear 46261
all of the available elements of a properly adjusted occupant 46262
restraining device. Evidence of that failure shall not be used as 46263
a basis for a criminal prosecution of the person other than a 46264
prosecution for a violation of this section; and shall not be 46265
admissible as evidence in a criminal action involving the person 46266
other than a prosecution for a violation of this section. 46267

(2) If, at the time of an accident involving a passenger car 46268
equipped with occupant restraining devices, any occupant of the 46269
passenger car who sustained injury or death was not wearing an 46270
available occupant restraining device, was not wearing all of the 46271
available elements of such a device, or was not wearing such a 46272
device as properly adjusted, then, consistent with the Rules of 46273
Evidence, the fact that the occupant was not wearing the available 46274
occupant restraining device, was not wearing all of the available 46275
elements of such a device, or was not wearing such a device as 46276
properly adjusted is admissible in evidence in relation to any 46277
claim for relief in a tort action to the extent that the claim for 46278
relief satisfies all of the following: 46279

(a) It seeks to recover damages for injury or death to the 46280
occupant. 46281

(b) The defendant in question is the manufacturer, designer, distributor, or seller of the passenger car. 46282
46283

(c) The claim for relief against the defendant in question is that the injury or death sustained by the occupant was enhanced or aggravated by some design defect in the passenger car or that the passenger car was not crashworthy. 46284
46285
46286
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(G)(1) Whoever violates division (B)(1) of this section shall be fined thirty dollars. 46288
46289

(2) Whoever violates division (B)(3) of this section shall be fined twenty dollars. 46290
46291

(3) Except as otherwise provided in this division, whoever violates division (B)(4) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to a violation of division (B)(4) of this section, whoever violates division (B)(4) of this section is guilty of a misdemeanor of the third degree. 46292
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Sec. 4513.50. As used in sections 4513.50 to 4513.53 of the Revised Code: 46298
46299

(A)(1) "Bus" means any vehicle used for the transportation of passengers that meets at least one of the following: 46300
46301

(a) Was originally designed by the manufacturer to transport more than fifteen passengers, including the driver; 46302
46303

(b) Either the gross vehicle weight rating or the gross vehicle weight exceeds ten thousand pounds. 46304
46305

(2) "Bus" does not include a church bus as defined in section 4503.07 of the Revised Code or a school bus unless the church bus or school bus is used in the transportation of passengers ~~for hire~~ by a motor ~~transportation company or a common~~ carrier ~~by motor vehicle or by a private motor carrier or contract carrier by motor vehicle.~~ 46306
46307
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- (3) "Bus" also does not include any of the following: 46312
- (a) Any vehicle operated exclusively on a rail or rails; 46313
- (b) A trolley bus operated by electric power derived from a 46314
fixed overhead wire furnishing local passenger transportation 46315
similar to street-railway service; 46316
- (c) Vehicles owned or leased by government agencies or 46317
political subdivisions. 46318
- (B)~~(1)~~ "~~Motor transportation company~~" and "~~common carrier by~~ 46319
~~motor vehicle~~" have has the same meanings meaning as in section 46320
~~4921.02~~ 4923.01 of the Revised Code. 46321
- ~~(2) "Private motor carrier" and "contract carrier by motor~~ 46322
~~vehicle" have the same meanings as in section 4923.02 of the~~ 46323
~~Revised Code.~~ 46324
- Sec. 4730.06.** (A) The physician assistant policy committee of 46325
the state medical board shall review, and shall submit to the 46326
board recommendations concerning, all of the following: 46327
- (1) Requirements for issuance of certificates to practice as 46328
a physician assistant, including the educational requirements that 46329
must be met to receive a certificate to practice; 46330
- (2) Existing and proposed rules pertaining to the practice of 46331
physician assistants, the supervisory relationship between 46332
physician assistants and supervising physicians, and the 46333
administration and enforcement of this chapter; 46334
- (3) ~~Physician-delegated~~ In accordance with section 4730.38 of 46335
the Revised Code, physician-delegated prescriptive authority for 46336
physician assistants, ~~in accordance with~~ and proposed changes to 46337
the physician assistant formulary the board adopts pursuant to 46338
division (A)(1) of section 4730.38 4730.39 of the Revised Code; 46339
- (4) Application procedures and forms for certificates to 46340

practice as a physician assistant, physician supervisory plans, 46341
and supervision agreements; 46342

(5) Fees required by this chapter for issuance and renewal of 46343
certificates to practice as a physician assistant; 46344

(6) Criteria to be included in applications submitted to the 46345
board for approval of physician supervisory plans, including 46346
criteria to be included in applications for approval to delegate 46347
to physician assistants the performance of special services; 46348

(7) Criteria to be included in supervision agreements 46349
submitted to the board for approval and renewal of the board's 46350
approval; 46351

(8) Any issue the board asks the committee to consider. 46352

(B) In addition to the matters that are required to be 46353
reviewed under division (A) of this section, the committee may 46354
review, and may submit to the board recommendations concerning, 46355
either or both of the following: 46356

(1) Quality assurance activities to be performed by a 46357
supervising physician and physician assistant under a quality 46358
assurance system established pursuant to division (F) of section 46359
4730.21 of the Revised Code; 46360

(2) The development and approval of one or more model 46361
physician supervisory plans and one or more models for a special 46362
services portion of the one or more model physician supervisory 46363
plans. The committee may submit recommendations for model plans 46364
that reflect various medical specialties. 46365

(C) The board shall take into consideration all 46366
recommendations submitted by the committee. Not later than ninety 46367
days after receiving a recommendation from the committee, the 46368
board shall approve or disapprove the recommendation and notify 46369
the committee of its decision. If a recommendation is disapproved, 46370

the board shall inform the committee of its reasons for making 46371
that decision. The committee may resubmit the recommendation after 46372
addressing the concerns expressed by the board and modifying the 46373
disapproved recommendation accordingly. Not later than ninety days 46374
after receiving a resubmitted recommendation, the board shall 46375
approve or disapprove the recommendation. There is no limit on the 46376
number of times the committee may resubmit a recommendation for 46377
consideration by the board. 46378

(D)(1) Except as provided in division (D)(2) of this section, 46379
the board may not take action regarding a matter that is subject 46380
to the committee's review under division (A) or (B) of this 46381
section unless the committee has made a recommendation to the 46382
board concerning the matter. 46383

(2) If the board submits to the committee a request for a 46384
recommendation regarding a matter that is subject to the 46385
committee's review under division (A) or (B) of this section, and 46386
the committee does not provide a recommendation before the 46387
sixty-first day after the request is submitted, the board may take 46388
action regarding the matter without a recommendation. 46389

Sec. 4730.38. (A) ~~Not later than six months after the~~ 46390
~~effective date~~ Except as provided in division (B) of this section, 46391
the physician assistant policy committee of the state medical 46392
board shall, at such times the committee determines to be 46393
necessary, submit to the board ~~its initial~~ recommendations 46394
regarding physician-delegated prescriptive authority for physician 46395
assistants. The committee's recommendations shall address ~~all~~ both 46396
of the following: 46397

(1) Policy and procedures regarding physician-delegated 46398
prescriptive authority, including the issuance of certificates to 46399
prescribe under this chapter; 46400

(2) ~~Subject to the limitations specified in section 4730.40~~ 46401

~~of the Revised Code, a formulary listing the drugs and therapeutic devices by class and specific nomenclature that a supervising physician may include in the physician-delegated prescriptive authority granted to a physician assistant who holds a certificate to prescribe issued under this chapter;~~

~~(3) Any issue the committee considers necessary to assist the board in fulfilling its duty to adopt rules governing physician-delegated prescriptive authority, including the issuance of certificates to prescribe.~~

~~(B) After the board's adoption of initial rules under section 4730.39 of the Revised Code, the committee shall conduct an annual review of its recommendations regarding physician-delegated prescriptive authority. Based on its review, the committee shall submit recommendations to the board as the committee considers necessary Not less than every six months beginning on the first day of June following the effective date of this amendment, the committee shall review the physician assistant formulary the board adopts pursuant to division (A)(1) of section 4730.39 of the Revised Code and, to the extent it determines to be necessary, submit recommendations proposing changes to the formulary.~~

~~(C) Recommendations submitted under this section are subject to the procedures and time frames specified in division (C) of section 4730.06 of the Revised Code.~~

Sec. 4730.39. ~~(A) Not later than six months after receiving the initial recommendations of the physician assistant policy committee submitted pursuant to division (A) of section 4730.38 of the Revised Code, the The state medical board shall adopt do both of the following:~~

~~(1) Adopt a formulary listing the drugs and therapeutic devices by class and specific generic nomenclature that a physician may include in the physician-delegated prescriptive~~

authority granted to a physician assistant who holds a certificate 46433
to prescribe under this chapter; 46434

(2) Adopt rules governing physician-delegated prescriptive 46435
authority for physician assistants, including the issuance of 46436
certificates to prescribe under this chapter. ~~The~~ 46437

(B) The board's rules governing physician-delegated 46438
prescriptive authority adopted pursuant to division (A)(2) of this 46439
section shall be adopted in accordance with Chapter 119. of the 46440
Revised Code and shall establish all of the following: 46441

~~(1) Subject to the limitations specified in section 4730.40~~ 46442
~~of the Revised Code, a formulary listing the drugs and therapeutic~~ 46443
~~devices by class and specific generic nomenclature that a~~ 46444
~~physician may include in the physician-delegated prescriptive~~ 46445
~~authority granted to a physician assistant who holds a certificate~~ 46446
~~to prescribe under this chapter;~~ 46447

~~(2)~~ Requirements regarding the pharmacology courses that a 46448
physician assistant is required to complete to receive a 46449
certificate to prescribe; 46450

~~(3)~~(2) Standards and procedures for the issuance and renewal 46451
of certificates to prescribe to physician assistants; 46452

~~(4)~~(3) Standards and procedures for the appropriate conduct 46453
of the provisional period that a physician assistant is required 46454
to complete pursuant to section 4730.45 of the Revised Code and 46455
for determining whether a physician assistant has successfully 46456
completed the provisional period; 46457

~~(5)~~(4) A specific prohibition against prescribing any drug or 46458
device to perform or induce an abortion; 46459

~~(6)~~(5) Standards and procedures to be followed by a physician 46460
assistant in personally furnishing samples of drugs or complete or 46461
partial supplies of drugs to patients under section 4730.43 of the 46462

Revised Code; 46463

~~(7)(6)~~ Any other requirements the board considers necessary 46464
to implement the provisions of this chapter regarding 46465
physician-delegated prescriptive authority and the issuance of 46466
certificates to prescribe. 46467

~~(B)(C)(1)~~ After ~~adopting the initial rules~~ considering 46468
recommendations submitted by the physician assistant policy 46469
committee pursuant to sections 4730.06 and 4730.38 of the Revised 46470
Code, the board shall ~~conduct an annual review~~ either or both of 46471
the ~~rules~~. Based following, as appropriate according to the 46472
submitted recommendations: 46473

(a) The formulary the board adopts under division (A)(1) of 46474
this section; 46475

(b) The rules the board adopts under division (A)(2) of this 46476
section regarding physician-delegated prescriptive authority. 46477

(2) Based on its review, the board shall make any necessary 46478
modifications to the formulary or rules. 46479

~~(C) All rules adopted under this section shall be adopted in~~ 46480
~~accordance with Chapter 119. of the Revised Code. When adopting~~ 46481
~~the initial rules, the board shall consider the recommendations of~~ 46482
~~the physician assistant policy committee submitted pursuant to~~ 46483
~~division (A) of section 4730.38 of the Revised Code. When making~~ 46484
~~any modifications to the rules subsequent to its annual review of~~ 46485
~~the rules, the board shall consider the committee's~~ 46486
~~recommendations submitted pursuant to division (B) of section~~ 46487
~~4730.38 of the Revised Code.~~ 46488

Sec. 4730.40. (A) Subject to ~~divisions~~ division (B) and ~~(C)~~ 46489
of this section, the physician assistant formulary established 46490
adopted by the state medical board ~~in rules adopted~~ under section 46491
4730.39 of the Revised Code ~~listing the drugs and therapeutic~~ 46492

~~devices by class and specific nomenclature that a supervising~~ 46493
~~physician may include in the physician-delegated prescriptive~~ 46494
~~authority granted to a physician assistant who holds a certificate~~ 46495
~~to prescribe issued under this chapter may include any or all of~~ 46496
the following drugs: 46497

(1) Schedule II, III, IV, and V controlled substances; 46498

(2) Drugs that under state or federal law may be dispensed 46499
only pursuant to a prescription by a licensed health professional 46500
authorized to prescribe drugs, as defined in section 4729.01 of 46501
the Revised Code; 46502

(3) Any drug that is not a dangerous drug, as defined in 46503
section 4729.01 of the Revised Code. 46504

(B) ~~The formulary established in the board's rules adopted by~~ 46505
~~the board~~ shall not include, and shall specify that it does not 46506
include, ~~the following:~~ 46507

~~(1) Any schedule II controlled substance;~~ 46508

~~(2) Any any drug or device used to perform or induce an~~ 46509
abortion. 46510

~~(C) When adopting rules establishing the initial formulary,~~ 46511
~~the board shall include provisions ensuring that a physician~~ 46512
~~assistant who holds a certificate to prescribe issued under this~~ 46513
~~chapter may be granted physician-delegated prescriptive authority~~ 46514
~~for all drugs and therapeutic devices that may be prescribed on~~ 46515
~~the effective date of the rules by a holder of a certificate to~~ 46516
~~prescribe issued by the board of nursing under Chapter 4723. of~~ 46517
~~the Revised Code, with the exception of schedule II controlled~~ 46518
~~substances. To the extent permitted by division (A) of this~~ 46519
~~section, the initial formulary may include additional drugs or~~ 46520
~~therapeutic devices.~~ 46521

Sec. 4730.41. (A) A certificate to prescribe issued under 46522
this chapter authorizes a physician assistant to prescribe and 46523
personally furnish drugs and therapeutic devices in the exercise 46524
of physician-delegated prescriptive authority. 46525

(B) In exercising physician-delegated prescriptive authority, 46526
a physician assistant is subject to all of the following: 46527

(1) The physician assistant shall exercise 46528
physician-delegated prescriptive authority only to the extent that 46529
the physician supervising the physician assistant has granted that 46530
authority. 46531

(2) The physician assistant shall comply with all conditions 46532
placed on the physician-delegated prescriptive authority, as 46533
specified by the supervising physician who is supervising the 46534
physician assistant in the exercise of physician-delegated 46535
prescriptive authority. 46536

(3) If the physician assistant possesses physician-delegated 46537
prescriptive authority for controlled substances, the physician 46538
assistant shall register with the federal drug enforcement 46539
administration. 46540

(4) If the physician assistant possesses physician-delegated 46541
prescriptive authority for schedule II controlled substances, the 46542
physician assistant shall comply with section 4730.411 of the 46543
Revised Code. 46544

Sec. 4730.411. (A) Except as provided in division (B) or (C) 46545
of this section, a physician assistant may prescribe to a patient 46546
a schedule II controlled substance only if all of the following 46547
are the case: 46548

(1) The patient is in a terminal condition, as defined in 46549
section 2133.01 of the Revised Code. 46550

(2) The physician assistant's supervising physician initially 46551
prescribed the substance for the patient. 46552

(3) The prescription is for an amount that does not exceed 46553
the amount necessary for the patient's use in a single, 46554
twenty-four-hour period. 46555

(B) The restrictions on prescriptive authority in division 46556
(A) of this section do not apply if a physician assistant issues 46557
the prescription to the patient from any of the following 46558
locations: 46559

(1) A hospital registered under section 3701.07 of the 46560
Revised Code; 46561

(2) An entity owned or controlled, in whole or in part, by a 46562
hospital or by an entity that owns or controls, in whole or in 46563
part, one or more hospitals; 46564

(3) A health care facility operated by the department of 46565
mental health or the department of developmental disabilities; 46566

(4) A nursing home licensed under section 3721.02 of the 46567
Revised Code or by a political subdivision certified under section 46568
3721.09 of the Revised Code; 46569

(5) A county home or district home operated under Chapter 46570
5155. of the Revised Code that is certified under the medicare or 46571
medicaid program; 46572

(6) A hospice care program, as defined in section 3712.01 of 46573
the Revised Code; 46574

(7) A community mental health agency, as defined in section 46575
5122.01 of the Revised Code; 46576

(8) An ambulatory surgical facility, as defined in section 46577
3702.30 of the Revised Code; 46578

(9) A freestanding birthing center, as defined in section 46579
3702.51 of the Revised Code; 46580

(10) A federally qualified health center, as defined in 46581
section 3701.047 of the Revised Code; 46582

(11) A federally qualified health center look-alike, as 46583
defined in section 3701.047 of the Revised Code; 46584

(12) A health care office or facility operated by the board 46585
of health of a city or general health district or the authority 46586
having the duties of a board of health under section 3709.05 of 46587
the Revised Code; 46588

(13) A site where a medical practice is operated, but only if 46589
the practice is comprised of one or more physicians who also are 46590
owners of the practice; the practice is organized to provide 46591
direct patient care; and the physician assistant has entered into 46592
a supervisory agreement with at least one of the physician owners 46593
who practices primarily at that site. 46594

(C) A physician assistant shall not issue to a patient a 46595
prescription for a schedule II controlled substance from a 46596
convenience care clinic even if the convenience care clinic is 46597
owned or operated by an entity specified in division (B) of this 46598
section. 46599

(D) A pharmacist who acts in good faith reliance on a 46600
prescription issued by a physician assistant under division (B) of 46601
this section is not liable for or subject to any of the following 46602
for relying on the prescription: damages in any civil action, 46603
prosecution in any criminal proceeding, or professional 46604
disciplinary action by the state board of pharmacy under Chapter 46605
4729. of the Revised Code. 46606

Sec. 4730.42. (A) In granting physician-delegated 46607
prescriptive authority to a particular physician assistant who 46608
holds a certificate to prescribe issued under this chapter, the 46609
supervising physician is subject to all of the following: 46610

(1) The supervising physician shall not grant 46611
physician-delegated prescriptive authority for any drug or 46612
therapeutic device that is not listed on the physician assistant 46613
formulary ~~established in rules~~ adopted under section 4730.39 of 46614
the Revised Code as a drug or therapeutic device that may be 46615
included in the physician-delegated prescriptive authority granted 46616
to a physician assistant. 46617

(2) The supervising physician shall not grant 46618
physician-delegated prescriptive authority for any drug or device 46619
that may be used to perform or induce an abortion. 46620

(3) The supervising physician shall not grant 46621
physician-delegated prescriptive authority in a manner that 46622
exceeds the supervising physician's prescriptive authority. 46623

(4) The supervising physician shall supervise the physician 46624
assistant in accordance with all of the following: 46625

(a) The supervision requirements specified in section 4730.21 46626
of the Revised Code and, in the case of supervision provided 46627
during a provisional period of physician-delegated prescriptive 46628
authority, the supervision requirements specified in section 46629
4730.45 of the Revised Code; 46630

(b) The physician supervisory plan approved for the 46631
supervising physician or the policies of the health care facility 46632
in which the physician and physician assistant are practicing; 46633

(c) The supervision agreement approved under section 4730.19 46634
of the Revised Code that applies to the supervising physician and 46635
the physician assistant. 46636

(B)(1) The supervising physician of a physician assistant may 46637
place conditions on the physician-delegated prescriptive authority 46638
granted to the physician assistant. If conditions are placed on 46639
that authority, the supervising physician shall maintain a written 46640
record of the conditions and make the record available to the 46641

state medical board on request. 46642

(2) The conditions that a supervising physician may place on 46643
the physician-delegated prescriptive authority granted to a 46644
physician assistant include the following: 46645

(a) Identification by class and specific generic nomenclature 46646
of drugs and therapeutic devices that the physician chooses not to 46647
permit the physician assistant to prescribe; 46648

(b) Limitations on the dosage units or refills that the 46649
physician assistant is authorized to prescribe; 46650

(c) Specification of circumstances under which the physician 46651
assistant is required to refer patients to the supervising 46652
physician or another physician when exercising physician-delegated 46653
prescriptive authority; 46654

(d) Responsibilities to be fulfilled by the physician in 46655
supervising the physician assistant that are not otherwise 46656
specified in the physician supervisory plan or otherwise required 46657
by this chapter. 46658

Sec. 4731.22. (A) The state medical board, by an affirmative 46659
vote of not fewer than six of its members, may revoke or may 46660
refuse to grant a certificate to a person found by the board to 46661
have committed fraud during the administration of the examination 46662
for a certificate to practice or to have committed fraud, 46663
misrepresentation, or deception in applying for or securing any 46664
certificate to practice or certificate of registration issued by 46665
the board. 46666

(B) The board, by an affirmative vote of not fewer than six 46667
members, shall, to the extent permitted by law, limit, revoke, or 46668
suspend an individual's certificate to practice, refuse to 46669
register an individual, refuse to reinstate a certificate, or 46670
reprimand or place on probation the holder of a certificate for 46671

one or more of the following reasons: 46672

(1) Permitting one's name or one's certificate to practice or 46673
certificate of registration to be used by a person, group, or 46674
corporation when the individual concerned is not actually 46675
directing the treatment given; 46676

(2) Failure to maintain minimal standards applicable to the 46677
selection or administration of drugs, or failure to employ 46678
acceptable scientific methods in the selection of drugs or other 46679
modalities for treatment of disease; 46680

(3) Selling, giving away, personally furnishing, prescribing, 46681
or administering drugs for other than legal and legitimate 46682
therapeutic purposes or a plea of guilty to, a judicial finding of 46683
guilt of, or a judicial finding of eligibility for intervention in 46684
lieu of conviction of, a violation of any federal or state law 46685
regulating the possession, distribution, or use of any drug; 46686

(4) Willfully betraying a professional confidence. 46687

For purposes of this division, "willfully betraying a 46688
professional confidence" does not include providing any 46689
information, documents, or reports to a child fatality review 46690
board under sections 307.621 to 307.629 of the Revised Code and 46691
does not include the making of a report of an employee's use of a 46692
drug of abuse, or a report of a condition of an employee other 46693
than one involving the use of a drug of abuse, to the employer of 46694
the employee as described in division (B) of section 2305.33 of 46695
the Revised Code. Nothing in this division affects the immunity 46696
from civil liability conferred by that section upon a physician 46697
who makes either type of report in accordance with division (B) of 46698
that section. As used in this division, "employee," "employer," 46699
and "physician" have the same meanings as in section 2305.33 of 46700
the Revised Code. 46701

(5) Making a false, fraudulent, deceptive, or misleading 46702

statement in the solicitation of or advertising for patients; in 46703
relation to the practice of medicine and surgery, osteopathic 46704
medicine and surgery, podiatric medicine and surgery, or a limited 46705
branch of medicine; or in securing or attempting to secure any 46706
certificate to practice or certificate of registration issued by 46707
the board. 46708

As used in this division, "false, fraudulent, deceptive, or 46709
misleading statement" means a statement that includes a 46710
misrepresentation of fact, is likely to mislead or deceive because 46711
of a failure to disclose material facts, is intended or is likely 46712
to create false or unjustified expectations of favorable results, 46713
or includes representations or implications that in reasonable 46714
probability will cause an ordinarily prudent person to 46715
misunderstand or be deceived. 46716

(6) A departure from, or the failure to conform to, minimal 46717
standards of care of similar practitioners under the same or 46718
similar circumstances, whether or not actual injury to a patient 46719
is established; 46720

(7) Representing, with the purpose of obtaining compensation 46721
or other advantage as personal gain or for any other person, that 46722
an incurable disease or injury, or other incurable condition, can 46723
be permanently cured; 46724

(8) The obtaining of, or attempting to obtain, money or 46725
anything of value by fraudulent misrepresentations in the course 46726
of practice; 46727

(9) A plea of guilty to, a judicial finding of guilt of, or a 46728
judicial finding of eligibility for intervention in lieu of 46729
conviction for, a felony; 46730

(10) Commission of an act that constitutes a felony in this 46731
state, regardless of the jurisdiction in which the act was 46732
committed; 46733

(11) A plea of guilty to, a judicial finding of guilt of, or 46734
a judicial finding of eligibility for intervention in lieu of 46735
conviction for, a misdemeanor committed in the course of practice; 46736

(12) Commission of an act in the course of practice that 46737
constitutes a misdemeanor in this state, regardless of the 46738
jurisdiction in which the act was committed; 46739

(13) A plea of guilty to, a judicial finding of guilt of, or 46740
a judicial finding of eligibility for intervention in lieu of 46741
conviction for, a misdemeanor involving moral turpitude; 46742

(14) Commission of an act involving moral turpitude that 46743
constitutes a misdemeanor in this state, regardless of the 46744
jurisdiction in which the act was committed; 46745

(15) Violation of the conditions of limitation placed by the 46746
board upon a certificate to practice; 46747

(16) Failure to pay license renewal fees specified in this 46748
chapter; 46749

(17) Except as authorized in section 4731.31 of the Revised 46750
Code, engaging in the division of fees for referral of patients, 46751
or the receiving of a thing of value in return for a specific 46752
referral of a patient to utilize a particular service or business; 46753

(18) Subject to section 4731.226 of the Revised Code, 46754
violation of any provision of a code of ethics of the American 46755
medical association, the American osteopathic association, the 46756
American podiatric medical association, or any other national 46757
professional organizations that the board specifies by rule. The 46758
state medical board shall obtain and keep on file current copies 46759
of the codes of ethics of the various national professional 46760
organizations. The individual whose certificate is being suspended 46761
or revoked shall not be found to have violated any provision of a 46762
code of ethics of an organization not appropriate to the 46763
individual's profession. 46764

For purposes of this division, a "provision of a code of ethics of a national professional organization" does not include any provision that would preclude the making of a report by a physician of an employee's use of a drug of abuse, or of a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee as described in division (B) of section 2305.33 of the Revised Code. Nothing in this division affects the immunity from civil liability conferred by that section upon a physician who makes either type of report in accordance with division (B) of that section. As used in this division, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(19) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, but not limited to, physical deterioration that adversely affects cognitive, motor, or perceptive skills.

In enforcing this division, the board, upon a showing of a possible violation, may compel any individual authorized to practice by this chapter or who has submitted an application pursuant to this chapter to submit to a mental examination, physical examination, including an HIV test, or both a mental and a physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an individual unable to practice because of the reasons set forth in this division, the board shall require the individual to submit to care, counseling,

or treatment by physicians approved or designated by the board, as 46797
a condition for initial, continued, reinstated, or renewed 46798
authority to practice. An individual affected under this division 46799
shall be afforded an opportunity to demonstrate to the board the 46800
ability to resume practice in compliance with acceptable and 46801
prevailing standards under the provisions of the individual's 46802
certificate. For the purpose of this division, any individual who 46803
applies for or receives a certificate to practice under this 46804
chapter accepts the privilege of practicing in this state and, by 46805
so doing, shall be deemed to have given consent to submit to a 46806
mental or physical examination when directed to do so in writing 46807
by the board, and to have waived all objections to the 46808
admissibility of testimony or examination reports that constitute 46809
a privileged communication. 46810

(20) Except when civil penalties are imposed under section 46811
4731.225 or 4731.281 of the Revised Code, and subject to section 46812
4731.226 of the Revised Code, violating or attempting to violate, 46813
directly or indirectly, or assisting in or abetting the violation 46814
of, or conspiring to violate, any provisions of this chapter or 46815
any rule promulgated by the board. 46816

This division does not apply to a violation or attempted 46817
violation of, assisting in or abetting the violation of, or a 46818
conspiracy to violate, any provision of this chapter or any rule 46819
adopted by the board that would preclude the making of a report by 46820
a physician of an employee's use of a drug of abuse, or of a 46821
condition of an employee other than one involving the use of a 46822
drug of abuse, to the employer of the employee as described in 46823
division (B) of section 2305.33 of the Revised Code. Nothing in 46824
this division affects the immunity from civil liability conferred 46825
by that section upon a physician who makes either type of report 46826
in accordance with division (B) of that section. As used in this 46827
division, "employee," "employer," and "physician" have the same 46828

meanings as in section 2305.33 of the Revised Code. 46829

(21) The violation of section 3701.79 of the Revised Code or 46830
of any abortion rule adopted by the ~~public~~ director of health 46831
~~council~~ pursuant to section 3701.341 of the Revised Code; 46832

(22) Any of the following actions taken by an agency 46833
responsible for authorizing, certifying, or regulating an 46834
individual to practice a health care occupation or provide health 46835
care services in this state or another jurisdiction, for any 46836
reason other than the nonpayment of fees: the limitation, 46837
revocation, or suspension of an individual's license to practice; 46838
acceptance of an individual's license surrender; denial of a 46839
license; refusal to renew or reinstate a license; imposition of 46840
probation; or issuance of an order of censure or other reprimand; 46841

(23) The violation of section 2919.12 of the Revised Code or 46842
the performance or inducement of an abortion upon a pregnant woman 46843
with actual knowledge that the conditions specified in division 46844
(B) of section 2317.56 of the Revised Code have not been satisfied 46845
or with a heedless indifference as to whether those conditions 46846
have been satisfied, unless an affirmative defense as specified in 46847
division (H)(2) of that section would apply in a civil action 46848
authorized by division (H)(1) of that section; 46849

(24) The revocation, suspension, restriction, reduction, or 46850
termination of clinical privileges by the United States department 46851
of defense or department of veterans affairs or the termination or 46852
suspension of a certificate of registration to prescribe drugs by 46853
the drug enforcement administration of the United States 46854
department of justice; 46855

(25) Termination or suspension from participation in the 46856
medicare or medicaid programs by the department of health and 46857
human services or other responsible agency for any act or acts 46858
that also would constitute a violation of division (B)(2), (3), 46859

(6), (8), or (19) of this section; 46860

(26) Impairment of ability to practice according to 46861
acceptable and prevailing standards of care because of habitual or 46862
excessive use or abuse of drugs, alcohol, or other substances that 46863
impair ability to practice. 46864

For the purposes of this division, any individual authorized 46865
to practice by this chapter accepts the privilege of practicing in 46866
this state subject to supervision by the board. By filing an 46867
application for or holding a certificate to practice under this 46868
chapter, an individual shall be deemed to have given consent to 46869
submit to a mental or physical examination when ordered to do so 46870
by the board in writing, and to have waived all objections to the 46871
admissibility of testimony or examination reports that constitute 46872
privileged communications. 46873

If it has reason to believe that any individual authorized to 46874
practice by this chapter or any applicant for certification to 46875
practice suffers such impairment, the board may compel the 46876
individual to submit to a mental or physical examination, or both. 46877
The expense of the examination is the responsibility of the 46878
individual compelled to be examined. Any mental or physical 46879
examination required under this division shall be undertaken by a 46880
treatment provider or physician who is qualified to conduct the 46881
examination and who is chosen by the board. 46882

Failure to submit to a mental or physical examination ordered 46883
by the board constitutes an admission of the allegations against 46884
the individual unless the failure is due to circumstances beyond 46885
the individual's control, and a default and final order may be 46886
entered without the taking of testimony or presentation of 46887
evidence. If the board determines that the individual's ability to 46888
practice is impaired, the board shall suspend the individual's 46889
certificate or deny the individual's application and shall require 46890
the individual, as a condition for initial, continued, reinstated, 46891

or renewed certification to practice, to submit to treatment. 46892

Before being eligible to apply for reinstatement of a 46893
certificate suspended under this division, the impaired 46894
practitioner shall demonstrate to the board the ability to resume 46895
practice in compliance with acceptable and prevailing standards of 46896
care under the provisions of the practitioner's certificate. The 46897
demonstration shall include, but shall not be limited to, the 46898
following: 46899

(a) Certification from a treatment provider approved under 46900
section 4731.25 of the Revised Code that the individual has 46901
successfully completed any required inpatient treatment; 46902

(b) Evidence of continuing full compliance with an aftercare 46903
contract or consent agreement; 46904

(c) Two written reports indicating that the individual's 46905
ability to practice has been assessed and that the individual has 46906
been found capable of practicing according to acceptable and 46907
prevailing standards of care. The reports shall be made by 46908
individuals or providers approved by the board for making the 46909
assessments and shall describe the basis for their determination. 46910

The board may reinstate a certificate suspended under this 46911
division after that demonstration and after the individual has 46912
entered into a written consent agreement. 46913

When the impaired practitioner resumes practice, the board 46914
shall require continued monitoring of the individual. The 46915
monitoring shall include, but not be limited to, compliance with 46916
the written consent agreement entered into before reinstatement or 46917
with conditions imposed by board order after a hearing, and, upon 46918
termination of the consent agreement, submission to the board for 46919
at least two years of annual written progress reports made under 46920
penalty of perjury stating whether the individual has maintained 46921
sobriety. 46922

(27) A second or subsequent violation of section 4731.66 or 46923
4731.69 of the Revised Code; 46924

(28) Except as provided in division (N) of this section: 46925

(a) Waiving the payment of all or any part of a deductible or 46926
copayment that a patient, pursuant to a health insurance or health 46927
care policy, contract, or plan that covers the individual's 46928
services, otherwise would be required to pay if the waiver is used 46929
as an enticement to a patient or group of patients to receive 46930
health care services from that individual; 46931

(b) Advertising that the individual will waive the payment of 46932
all or any part of a deductible or copayment that a patient, 46933
pursuant to a health insurance or health care policy, contract, or 46934
plan that covers the individual's services, otherwise would be 46935
required to pay. 46936

(29) Failure to use universal blood and body fluid 46937
precautions established by rules adopted under section 4731.051 of 46938
the Revised Code; 46939

(30) Failure to provide notice to, and receive acknowledgment 46940
of the notice from, a patient when required by section 4731.143 of 46941
the Revised Code prior to providing nonemergency professional 46942
services, or failure to maintain that notice in the patient's 46943
file; 46944

(31) Failure of a physician supervising a physician assistant 46945
to maintain supervision in accordance with the requirements of 46946
Chapter 4730. of the Revised Code and the rules adopted under that 46947
chapter; 46948

(32) Failure of a physician or podiatrist to enter into a 46949
standard care arrangement with a clinical nurse specialist, 46950
certified nurse-midwife, or certified nurse practitioner with whom 46951
the physician or podiatrist is in collaboration pursuant to 46952
section 4731.27 of the Revised Code or failure to fulfill the 46953

responsibilities of collaboration after entering into a standard care arrangement; 46954
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(33) Failure to comply with the terms of a consult agreement entered into with a pharmacist pursuant to section 4729.39 of the Revised Code; 46956
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(34) Failure to cooperate in an investigation conducted by the board under division (F) of this section, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue; 46959
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(35) Failure to supervise an acupuncturist in accordance with Chapter 4762. of the Revised Code and the board's rules for supervision of an acupuncturist; 46968
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(36) Failure to supervise an anesthesiologist assistant in accordance with Chapter 4760. of the Revised Code and the board's rules for supervision of an anesthesiologist assistant; 46971
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(37) Assisting suicide as defined in section 3795.01 of the Revised Code; 46974
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(38) Failure to comply with the requirements of section 2317.561 of the Revised Code; 46976
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(39) Failure to supervise a radiologist assistant in accordance with Chapter 4774. of the Revised Code and the board's rules for supervision of radiologist assistants; 46978
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(40) Performing or inducing an abortion at an office or facility with knowledge that the office or facility fails to post the notice required under section 3701.791 of the Revised Code; 46981
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46983

(41) Failure to comply with the standards and procedures 46984
established in rules under section 4731.054 of the Revised Code 46985
for the operation of or the provision of care at a pain management 46986
clinic; 46987

(42) Failure to comply with the standards and procedures 46988
established in rules under section 4731.054 of the Revised Code 46989
for providing supervision, direction, and control of individuals 46990
at a pain management clinic; 46991

(43) Failure to comply with the requirements of section 46992
4729.79 of the Revised Code, unless the state board of pharmacy no 46993
longer maintains a drug database pursuant to section 4729.75 of 46994
the Revised Code; 46995

~~(41)~~(44) Failure to comply with the requirements of section 46996
2919.171 of the Revised Code or failure to submit to the 46997
department of health in accordance with a court order a complete 46998
report as described in section 2919.171 of the Revised Code. 46999

(C) Disciplinary actions taken by the board under divisions 47000
(A) and (B) of this section shall be taken pursuant to an 47001
adjudication under Chapter 119. of the Revised Code, except that 47002
in lieu of an adjudication, the board may enter into a consent 47003
agreement with an individual to resolve an allegation of a 47004
violation of this chapter or any rule adopted under it. A consent 47005
agreement, when ratified by an affirmative vote of not fewer than 47006
six members of the board, shall constitute the findings and order 47007
of the board with respect to the matter addressed in the 47008
agreement. If the board refuses to ratify a consent agreement, the 47009
admissions and findings contained in the consent agreement shall 47010
be of no force or effect. 47011

A telephone conference call may be utilized for ratification 47012
of a consent agreement that revokes or suspends an individual's 47013
certificate to practice. The telephone conference call shall be 47014

considered a special meeting under division (F) of section 121.22 47015
of the Revised Code. 47016

If the board takes disciplinary action against an individual 47017
under division (B) of this section for a second or subsequent plea 47018
of guilty to, or judicial finding of guilt of, a violation of 47019
section 2919.123 of the Revised Code, the disciplinary action 47020
shall consist of a suspension of the individual's certificate to 47021
practice for a period of at least one year or, if determined 47022
appropriate by the board, a more serious sanction involving the 47023
individual's certificate to practice. Any consent agreement 47024
entered into under this division with an individual that pertains 47025
to a second or subsequent plea of guilty to, or judicial finding 47026
of guilt of, a violation of that section shall provide for a 47027
suspension of the individual's certificate to practice for a 47028
period of at least one year or, if determined appropriate by the 47029
board, a more serious sanction involving the individual's 47030
certificate to practice. 47031

(D) For purposes of divisions (B)(10), (12), and (14) of this 47032
section, the commission of the act may be established by a finding 47033
by the board, pursuant to an adjudication under Chapter 119. of 47034
the Revised Code, that the individual committed the act. The board 47035
does not have jurisdiction under those divisions if the trial 47036
court renders a final judgment in the individual's favor and that 47037
judgment is based upon an adjudication on the merits. The board 47038
has jurisdiction under those divisions if the trial court issues 47039
an order of dismissal upon technical or procedural grounds. 47040

(E) The sealing of conviction records by any court shall have 47041
no effect upon a prior board order entered under this section or 47042
upon the board's jurisdiction to take action under this section 47043
if, based upon a plea of guilty, a judicial finding of guilt, or a 47044
judicial finding of eligibility for intervention in lieu of 47045
conviction, the board issued a notice of opportunity for a hearing 47046

prior to the court's order to seal the records. The board shall 47047
not be required to seal, destroy, redact, or otherwise modify its 47048
records to reflect the court's sealing of conviction records. 47049

(F)(1) The board shall investigate evidence that appears to 47050
show that a person has violated any provision of this chapter or 47051
any rule adopted under it. Any person may report to the board in a 47052
signed writing any information that the person may have that 47053
appears to show a violation of any provision of this chapter or 47054
any rule adopted under it. In the absence of bad faith, any person 47055
who reports information of that nature or who testifies before the 47056
board in any adjudication conducted under Chapter 119. of the 47057
Revised Code shall not be liable in damages in a civil action as a 47058
result of the report or testimony. Each complaint or allegation of 47059
a violation received by the board shall be assigned a case number 47060
and shall be recorded by the board. 47061

(2) Investigations of alleged violations of this chapter or 47062
any rule adopted under it shall be supervised by the supervising 47063
member elected by the board in accordance with section 4731.02 of 47064
the Revised Code and by the secretary as provided in section 47065
4731.39 of the Revised Code. The president may designate another 47066
member of the board to supervise the investigation in place of the 47067
supervising member. No member of the board who supervises the 47068
investigation of a case shall participate in further adjudication 47069
of the case. 47070

(3) In investigating a possible violation of this chapter or 47071
any rule adopted under this chapter, the board may administer 47072
oaths, order the taking of depositions, inspect and copy any 47073
books, accounts, papers, records, or documents, issue subpoenas, 47074
and compel the attendance of witnesses and production of books, 47075
accounts, papers, records, documents, and testimony, except that a 47076
subpoena for patient record information shall not be issued 47077
without consultation with the attorney general's office and 47078

approval of the secretary and supervising member of the board. 47079
Before issuance of a subpoena for patient record information, the 47080
secretary and supervising member shall determine whether there is 47081
probable cause to believe that the complaint filed alleges a 47082
violation of this chapter or any rule adopted under it and that 47083
the records sought are relevant to the alleged violation and 47084
material to the investigation. The subpoena may apply only to 47085
records that cover a reasonable period of time surrounding the 47086
alleged violation. 47087

On failure to comply with any subpoena issued by the board 47088
and after reasonable notice to the person being subpoenaed, the 47089
board may move for an order compelling the production of persons 47090
or records pursuant to the Rules of Civil Procedure. 47091

A subpoena issued by the board may be served by a sheriff, 47092
the sheriff's deputy, or a board employee designated by the board. 47093
Service of a subpoena issued by the board may be made by 47094
delivering a copy of the subpoena to the person named therein, 47095
reading it to the person, or leaving it at the person's usual 47096
place of residence. When the person being served is a person whose 47097
practice is authorized by this chapter, service of the subpoena 47098
may be made by certified mail, restricted delivery, return receipt 47099
requested, and the subpoena shall be deemed served on the date 47100
delivery is made or the date the person refuses to accept 47101
delivery. 47102

A sheriff's deputy who serves a subpoena shall receive the 47103
same fees as a sheriff. Each witness who appears before the board 47104
in obedience to a subpoena shall receive the fees and mileage 47105
provided for under section 119.094 of the Revised Code. 47106

(4) All hearings and investigations of the board shall be 47107
considered civil actions for the purposes of section 2305.252 of 47108
the Revised Code. 47109

(5) Information received by the board pursuant to an 47110
investigation is confidential and not subject to discovery in any 47111
civil action. 47112

The board shall conduct all investigations and proceedings in 47113
a manner that protects the confidentiality of patients and persons 47114
who file complaints with the board. The board shall not make 47115
public the names or any other identifying information about 47116
patients or complainants unless proper consent is given or, in the 47117
case of a patient, a waiver of the patient privilege exists under 47118
division (B) of section 2317.02 of the Revised Code, except that 47119
consent or a waiver of that nature is not required if the board 47120
possesses reliable and substantial evidence that no bona fide 47121
physician-patient relationship exists. 47122

The board may share any information it receives pursuant to 47123
an investigation, including patient records and patient record 47124
information, with law enforcement agencies, other licensing 47125
boards, and other governmental agencies that are prosecuting, 47126
adjudicating, or investigating alleged violations of statutes or 47127
administrative rules. An agency or board that receives the 47128
information shall comply with the same requirements regarding 47129
confidentiality as those with which the state medical board must 47130
comply, notwithstanding any conflicting provision of the Revised 47131
Code or procedure of the agency or board that applies when it is 47132
dealing with other information in its possession. In a judicial 47133
proceeding, the information may be admitted into evidence only in 47134
accordance with the Rules of Evidence, but the court shall require 47135
that appropriate measures are taken to ensure that confidentiality 47136
is maintained with respect to any part of the information that 47137
contains names or other identifying information about patients or 47138
complainants whose confidentiality was protected by the state 47139
medical board when the information was in the board's possession. 47140
Measures to ensure confidentiality that may be taken by the court 47141

include sealing its records or deleting specific information from 47142
its records. 47143

(6) On a quarterly basis, the board shall prepare a report 47144
that documents the disposition of all cases during the preceding 47145
three months. The report shall contain the following information 47146
for each case with which the board has completed its activities: 47147

(a) The case number assigned to the complaint or alleged 47148
violation; 47149

(b) The type of certificate to practice, if any, held by the 47150
individual against whom the complaint is directed; 47151

(c) A description of the allegations contained in the 47152
complaint; 47153

(d) The disposition of the case. 47154

The report shall state how many cases are still pending and 47155
shall be prepared in a manner that protects the identity of each 47156
person involved in each case. The report shall be a public record 47157
under section 149.43 of the Revised Code. 47158

(G) If the secretary and supervising member determine both of 47159
the following, they may recommend that the board suspend an 47160
individual's certificate to practice without a prior hearing: 47161

(1) That there is clear and convincing evidence that an 47162
individual has violated division (B) of this section; 47163

(2) That the individual's continued practice presents a 47164
danger of immediate and serious harm to the public. 47165

Written allegations shall be prepared for consideration by 47166
the board. The board, upon review of those allegations and by an 47167
affirmative vote of not fewer than six of its members, excluding 47168
the secretary and supervising member, may suspend a certificate 47169
without a prior hearing. A telephone conference call may be 47170
utilized for reviewing the allegations and taking the vote on the 47171

summary suspension. 47172

The board shall issue a written order of suspension by 47173
certified mail or in person in accordance with section 119.07 of 47174
the Revised Code. The order shall not be subject to suspension by 47175
the court during pendency of any appeal filed under section 119.12 47176
of the Revised Code. If the individual subject to the summary 47177
suspension requests an adjudicatory hearing by the board, the date 47178
set for the hearing shall be within fifteen days, but not earlier 47179
than seven days, after the individual requests the hearing, unless 47180
otherwise agreed to by both the board and the individual. 47181

Any summary suspension imposed under this division shall 47182
remain in effect, unless reversed on appeal, until a final 47183
adjudicative order issued by the board pursuant to this section 47184
and Chapter 119. of the Revised Code becomes effective. The board 47185
shall issue its final adjudicative order within seventy-five days 47186
after completion of its hearing. A failure to issue the order 47187
within seventy-five days shall result in dissolution of the 47188
summary suspension order but shall not invalidate any subsequent, 47189
final adjudicative order. 47190

(H) If the board takes action under division (B)(9), (11), or 47191
(13) of this section and the judicial finding of guilt, guilty 47192
plea, or judicial finding of eligibility for intervention in lieu 47193
of conviction is overturned on appeal, upon exhaustion of the 47194
criminal appeal, a petition for reconsideration of the order may 47195
be filed with the board along with appropriate court documents. 47196
Upon receipt of a petition of that nature and supporting court 47197
documents, the board shall reinstate the individual's certificate 47198
to practice. The board may then hold an adjudication under Chapter 47199
119. of the Revised Code to determine whether the individual 47200
committed the act in question. Notice of an opportunity for a 47201
hearing shall be given in accordance with Chapter 119. of the 47202
Revised Code. If the board finds, pursuant to an adjudication held 47203

under this division, that the individual committed the act or if 47204
no hearing is requested, the board may order any of the sanctions 47205
identified under division (B) of this section. 47206

(I) The certificate to practice issued to an individual under 47207
this chapter and the individual's practice in this state are 47208
automatically suspended as of the date of the individual's second 47209
or subsequent plea of guilty to, or judicial finding of guilt of, 47210
a violation of section 2919.123 of the Revised Code, or the date 47211
the individual pleads guilty to, is found by a judge or jury to be 47212
guilty of, or is subject to a judicial finding of eligibility for 47213
intervention in lieu of conviction in this state or treatment or 47214
intervention in lieu of conviction in another jurisdiction for any 47215
of the following criminal offenses in this state or a 47216
substantially equivalent criminal offense in another jurisdiction: 47217
aggravated murder, murder, voluntary manslaughter, felonious 47218
assault, kidnapping, rape, sexual battery, gross sexual 47219
imposition, aggravated arson, aggravated robbery, or aggravated 47220
burglary. Continued practice after suspension shall be considered 47221
practicing without a certificate. 47222

The board shall notify the individual subject to the 47223
suspension by certified mail or in person in accordance with 47224
section 119.07 of the Revised Code. If an individual whose 47225
certificate is automatically suspended under this division fails 47226
to make a timely request for an adjudication under Chapter 119. of 47227
the Revised Code, the board shall do whichever of the following is 47228
applicable: 47229

(1) If the automatic suspension under this division is for a 47230
second or subsequent plea of guilty to, or judicial finding of 47231
guilt of, a violation of section 2919.123 of the Revised Code, the 47232
board shall enter an order suspending the individual's certificate 47233
to practice for a period of at least one year or, if determined 47234
appropriate by the board, imposing a more serious sanction 47235

involving the individual's certificate to practice. 47236

(2) In all circumstances in which division (I)(1) of this 47237
section does not apply, enter a final order permanently revoking 47238
the individual's certificate to practice. 47239

(J) If the board is required by Chapter 119. of the Revised 47240
Code to give notice of an opportunity for a hearing and if the 47241
individual subject to the notice does not timely request a hearing 47242
in accordance with section 119.07 of the Revised Code, the board 47243
is not required to hold a hearing, but may adopt, by an 47244
affirmative vote of not fewer than six of its members, a final 47245
order that contains the board's findings. In that final order, the 47246
board may order any of the sanctions identified under division (A) 47247
or (B) of this section. 47248

(K) Any action taken by the board under division (B) of this 47249
section resulting in a suspension from practice shall be 47250
accompanied by a written statement of the conditions under which 47251
the individual's certificate to practice may be reinstated. The 47252
board shall adopt rules governing conditions to be imposed for 47253
reinstatement. Reinstatement of a certificate suspended pursuant 47254
to division (B) of this section requires an affirmative vote of 47255
not fewer than six members of the board. 47256

(L) When the board refuses to grant a certificate to an 47257
applicant, revokes an individual's certificate to practice, 47258
refuses to register an applicant, or refuses to reinstate an 47259
individual's certificate to practice, the board may specify that 47260
its action is permanent. An individual subject to a permanent 47261
action taken by the board is forever thereafter ineligible to hold 47262
a certificate to practice and the board shall not accept an 47263
application for reinstatement of the certificate or for issuance 47264
of a new certificate. 47265

(M) Notwithstanding any other provision of the Revised Code, 47266

all of the following apply: 47267

(1) The surrender of a certificate issued under this chapter shall not be effective unless or until accepted by the board. A telephone conference call may be utilized for acceptance of the surrender of an individual's certificate to practice. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code. Reinstatement of a certificate surrendered to the board requires an affirmative vote of not fewer than six members of the board. 47268
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(2) An application for a certificate made under the provisions of this chapter may not be withdrawn without approval of the board. 47276
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(3) Failure by an individual to renew a certificate of registration in accordance with this chapter shall not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual. 47279
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(N) Sanctions shall not be imposed under division (B)(28) of this section against any person who waives deductibles and copayments as follows: 47283
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(1) In compliance with the health benefit plan that expressly allows such a practice. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request. 47286
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(2) For professional services rendered to any other person authorized to practice pursuant to this chapter, to the extent allowed by this chapter and rules adopted by the board. 47291
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(O) Under the board's investigative duties described in this section and subject to division (F) of this section, the board shall develop and implement a quality intervention program designed to improve through remedial education the clinical and 47294
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communication skills of individuals authorized under this chapter 47298
to practice medicine and surgery, osteopathic medicine and 47299
surgery, and podiatric medicine and surgery. In developing and 47300
implementing the quality intervention program, the board may do 47301
all of the following: 47302

(1) Offer in appropriate cases as determined by the board an 47303
educational and assessment program pursuant to an investigation 47304
the board conducts under this section; 47305

(2) Select providers of educational and assessment services, 47306
including a quality intervention program panel of case reviewers; 47307

(3) Make referrals to educational and assessment service 47308
providers and approve individual educational programs recommended 47309
by those providers. The board shall monitor the progress of each 47310
individual undertaking a recommended individual educational 47311
program. 47312

(4) Determine what constitutes successful completion of an 47313
individual educational program and require further monitoring of 47314
the individual who completed the program or other action that the 47315
board determines to be appropriate; 47316

(5) Adopt rules in accordance with Chapter 119. of the 47317
Revised Code to further implement the quality intervention 47318
program. 47319

An individual who participates in an individual educational 47320
program pursuant to this division shall pay the financial 47321
obligations arising from that educational program. 47322

Sec. 4731.297. (A) As used in this section, "academic medical 47323
center" means a medical school and its affiliated teaching 47324
hospitals and clinics partnering to do all of the following: 47325

(1) Provide the highest quality of patient care from expert 47326
physicians; 47327

(2) Conduct groundbreaking research leading to medical 47328
advancements for current and future patients; 47329

(3) Provide medical education and graduate medical education 47330
to educate and train physicians. 47331

(B) The state medical board shall issue, without examination, 47332
to an applicant who meets the requirements of this section a 47333
certificate of conceded eminence authorizing the practice of 47334
medicine and surgery or osteopathic medicine and surgery as part 47335
of the applicant's employment with an academic medical center in 47336
this state. 47337

(C) To be eligible for a certificate of conceded eminence, an 47338
applicant shall provide to the board all of the following: 47339

(1) Evidence satisfactory to the board of all of the 47340
following: 47341

(a) That the applicant is an international medical graduate 47342
who holds a medical degree from an educational institution listed 47343
in the international medical education directory; 47344

(b) That the applicant has been appointed to serve in this 47345
state as a tenure-track faculty member of a medical school 47346
accredited by the liaison committee on medical education or an 47347
osteopathic medical school accredited by the American osteopathic 47348
association; 47349

(c) That the applicant has accepted an offer of employment 47350
with an academic medical center in this state; 47351

(d) That the applicant has unique talents and extraordinary 47352
abilities not generally found within the applicant's specialty, as 47353
demonstrated by any of the following: 47354

(i) The applicant has achieved educational qualifications 47355
beyond those that are required for entry into the applicant's 47356
specialty, including advanced degrees, special certifications, or 47357

other academic credentials. 47358

(ii) The applicant has written multiple articles in scholarly publications in the field. 47359
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(iii) The applicant has a sustained record of excellence in original research, at least some of which involves serving as the principal investigator or co-principal investigator for a research project. 47361
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(iv) The applicant has received nationally or internationally recognized prizes or awards for excellence. 47365
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(v) The applicant has participated in judging the work of others in a field of specialization that is the same as or similar to the applicant's specialty. 47367
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(vi) The applicant has developed new procedures or treatments for complex medical problems that are recognized by peers as a significant advancement in the applicable field of medicine. 47370
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(vii) The applicant has held previous academic appointments with or been employed by a health care organization that has a distinguished national or international reputation. 47373
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(viii) The applicant has been the recipient of a national institutes of health or other competitive grant award. 47376
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(e) That the applicant has received staff membership or professional privileges from the academic medical center pursuant to standards adopted under section 3701.351 of the Revised Code on a basis that requires the applicant's medical education and graduate medical education to be at least equivalent to that of a physician educated and trained in the United States; 47378
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(f) That the applicant has sufficient written and oral English skills to communicate effectively and reliably with patients, their families, and other medical professionals; 47384
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(g) That the applicant will have professional liability 47387

<u>insurance through the applicant's employment with the academic</u>	47388
<u>medical center.</u>	47389
<u>(2) An affidavit from the applicant agreeing to practice only</u>	47390
<u>within the clinical setting of the academic medical center;</u>	47391
<u>(3) Three letters of reference from distinguished experts in</u>	47392
<u>the applicant's specialty attesting to the unique capabilities of</u>	47393
<u>the applicant, at least one of which must be from outside the</u>	47394
<u>academic medical center;</u>	47395
<u>(4) The fee set by the board for the certificate.</u>	47396
<u>(D)(1) The holder of a certificate of conceded eminence may</u>	47397
<u>practice medicine and surgery or osteopathic medicine and surgery</u>	47398
<u>only within the clinical setting of the academic medical center</u>	47399
<u>with which the certificate holder is employed.</u>	47400
<u>(2) A certificate holder may supervise medical students,</u>	47401
<u>physicians participating in graduate medical education, advanced</u>	47402
<u>practice nurses, and physician assistants when performing clinical</u>	47403
<u>services in the certificate holder's area of specialty.</u>	47404
<u>(E) The board may revoke a certificate issued under this</u>	47405
<u>section on receiving proof satisfactory to the board that the</u>	47406
<u>certificate holder has engaged in practice in this state outside</u>	47407
<u>the scope of the certificate or that there are grounds for action</u>	47408
<u>against the certificate holder under section 4731.22 of the</u>	47409
<u>Revised Code.</u>	47410
<u>(F) A certificate of conceded eminence is valid for the</u>	47411
<u>shorter of two years or the duration of the certificate holder's</u>	47412
<u>employment with the academic medical center. The certificate</u>	47413
<u>ceases to be valid if the holder resigns or is otherwise</u>	47414
<u>terminated from the academic medical center.</u>	47415
<u>(G) A certificate of conceded eminence may be renewed for an</u>	47416
<u>additional two-year period. There is no limit on the number of</u>	47417

times a certificate may be renewed. A person seeking renewal of a 47418
certificate shall apply to the board and is eligible for renewal 47419
if the applicant does all of the following: 47420

(1) Pays the renewal fee set by the board; 47421

(2) Provides to the board an affidavit and supporting 47422
documentation from the academic medical center of all of the 47423
following: 47424

(a) That the applicant's initial appointment to the medical 47425
faculty is still valid or has been renewed; 47426

(b) That the applicant's clinical practice is consistent with 47427
the established standards in the field; 47428

(c) That the applicant has demonstrated continued scholarly 47429
achievement; 47430

(d) That the applicant has demonstrated continued 47431
professional achievement consistent with the academic medical 47432
center's requirements, established pursuant to standards adopted 47433
under section 3701.351 of the Revised Code, for physicians with 47434
staff membership or professional privileges with the academic 47435
medical center. 47436

(3) Satisfies the same continuing medical education 47437
requirements set forth in section 4731.281 of the Revised Code 47438
that apply to a person who holds a certificate to practice 47439
medicine and surgery or osteopathic medicine and surgery issued 47440
under this chapter. 47441

(4) Complies with any other requirements established by the 47442
board. 47443

(H) The board shall maintain a register of all persons who 47444
hold certificates of conceded eminence. 47445

(I) The board may adopt any rules it considers necessary to 47446
implement this section. The rules shall be adopted in accordance 47447

with Chapter 119. of the Revised Code. 47448

Sec. 4736.01. As used in this chapter: 47449

(A) "Environmental health science" means the aspect of public 47450
health science that includes, but is not limited to, the following 47451
bodies of knowledge: air quality, food quality and protection, 47452
hazardous and toxic substances, consumer product safety, housing, 47453
institutional health and safety, community noise control, 47454
radiation protection, recreational facilities, solid and liquid 47455
waste management, vector control, drinking water quality, milk 47456
sanitation, and rabies control. 47457

(B) "Sanitarian" means a person who performs for compensation 47458
educational, investigational, technical, or administrative duties 47459
requiring specialized knowledge and skills in the field of 47460
environmental health science. 47461

(C) "Registered sanitarian" means a person who is registered 47462
as a sanitarian in accordance with this chapter. 47463

(D) "Sanitarian-in-training" means a person who is registered 47464
as a sanitarian-in-training in accordance with this chapter. 47465

(E) "Practice of environmental health" means consultation, 47466
instruction, investigation, inspection, or evaluation by an 47467
employee of a city health district, a general health district, the 47468
environmental protection agency, the department of health, or the 47469
department of agriculture requiring specialized knowledge, 47470
training, and experience in the field of environmental health 47471
science, with the primary purpose of improving or conducting 47472
administration or enforcement under any of the following: 47473

(1) Chapter 911., 913., 917., 3717., 3718., 3721., 3729., or 47474
3733. of the Revised Code; 47475

(2) Chapter 3734. of the Revised Code as it pertains to solid 47476
waste; 47477

(3) Section 955.26, 3701.344, 3707.01, or 3707.03, sections 47478
3707.38 to 3707.99, or section 3715.21 of the Revised Code; 47479

(4) Rules adopted under former section 3701.34 of the Revised 47480
Code pertaining to rabies control or swimming pools; 47481

(5) Rules adopted under section 3701.935 of the Revised Code 47482
for school health and safety network inspections and rules adopted 47483
under section 3707.26 of the Revised Code for sanitary 47484
inspections. 47485

"Practice of environmental health" does not include sampling, 47486
testing, controlling of vectors, reporting of observations, or 47487
other duties that do not require application of specialized 47488
knowledge and skills in environmental health science performed 47489
under the supervision of a registered sanitarian. 47490

The state board of sanitarian registration may further define 47491
environmental health science in relation to specific functions in 47492
the practice of environmental health through rules adopted by the 47493
board under Chapter 119. of the Revised Code. 47494

Sec. 4740.03. (A) The administrative section of the Ohio 47495
construction industry licensing board annually shall elect from 47496
among its members a chairperson and other officers as the board, 47497
by rule, designates. The chairperson shall preside over meetings 47498
of the administrative section or designate another member to 47499
preside in the chairperson's absence. The administrative section 47500
shall hold at least two regular meetings each year, but may meet 47501
at additional times as specified by rule, at the call of the 47502
chairperson, or upon the request of two or more members. A 47503
majority of the members of the administrative section constitutes 47504
a quorum for the transaction of all business. The administrative 47505
section may not take any action without the concurrence of at 47506
least three of its members. 47507

(B)(1) The administrative section shall employ a secretary, 47508
who is not a member of the board, to serve at the pleasure of the 47509
administrative section, and shall fix the compensation of the 47510
secretary. The secretary shall be in the unclassified civil 47511
service of the state. 47512

(2) The secretary shall do all of the following: 47513

(a) Keep or set standards for and delegate to another person 47514
the keeping of the minutes, books, and other records and files of 47515
the board and each section of the board; 47516

(b) Issue all licenses in the name of the board; 47517

(c) Send out all notices, including advance notices of 47518
meetings of the board and each section of the board, and attend to 47519
all correspondence of the board and each section of the board, 47520
under the direction of the administrative section; 47521

(d) Receive and deposit all fees payable pursuant to this 47522
chapter into the ~~labor~~ industrial compliance operating fund 47523
created pursuant to section 121.084 of the Revised Code; 47524

(e) Perform all other duties incidental to the office of the 47525
secretary or properly assigned to the secretary by the 47526
administrative section of the board. 47527

(3) Before entering upon the discharge of the duties of the 47528
secretary, the secretary shall file with the treasurer of state a 47529
bond in the sum of five thousand dollars, payable to the state, to 47530
ensure the faithful performance of the secretary's duties. The 47531
board shall pay the premium of the bond in the same manner as it 47532
pays other expenditures of the board. 47533

(C) Upon the request of the administrative section of the 47534
board, the director of commerce shall supply the board and its 47535
sections with personnel, office space, and supplies, as the 47536
director determines appropriate. The administrative section of the 47537

board shall employ any additional staff it considers necessary and appropriate. 47538
47539

(D) The chairperson of the board or the secretary, or both, 47540
as authorized by the board, shall approve all vouchers of the 47541
board. 47542

Sec. 4740.11. The Ohio construction industry licensing board 47543
and its sections shall deposit all receipts and fines collected 47544
under this chapter into the state treasury to the credit of the 47545
~~labor~~ industrial compliance operating fund created in section 47546
121.084 of the Revised Code. 47547

Sec. 4740.14. (A) There is hereby created within the 47548
department of commerce the residential construction advisory 47549
committee consisting of nine persons the director of commerce 47550
appoints. The advisory committee shall be made up of the following 47551
members: 47552

(1) Three shall be general contractors who have recognized 47553
ability and experience in the construction of residential 47554
buildings. 47555

(2) Two shall be building officials who have experience 47556
administering and enforcing a residential building code. 47557

(3) One, chosen from a list of three names the Ohio fire 47558
chief's association submits, shall be from the fire service 47559
certified as a fire safety inspector who has at least ten years of 47560
experience enforcing fire or building codes. 47561

(4) One shall be a residential contractor who has recognized 47562
ability and experience in the remodeling and construction of 47563
residential buildings. 47564

(5) One shall be an architect registered pursuant to Chapter 47565
4703. of the Revised Code, with recognized ability and experience 47566

in the architecture of residential buildings. 47567

(6) One, chosen from a list of three names the Ohio municipal 47568
league submits to the director, shall be a mayor of a municipal 47569
corporation in which the Ohio residential building code is being 47570
enforced in the municipal corporation by a certified building 47571
department. 47572

(B) Terms of office shall be for three years, with each term 47573
ending on the date three years after the date of appointment. Each 47574
member shall hold office from the date of appointment until the 47575
end of the term for which the member was appointed. Vacancies 47576
shall be filled in the manner provided for initial appointments. 47577
Any member appointed to fill a vacancy in an unexpired term shall 47578
hold office for the remainder of that term. 47579

(C) The advisory committee shall do all of the following: 47580

(1) Recommend to the board of building standards a building 47581
code for residential buildings. The committee shall recommend a 47582
code that it may model on a residential building code a national 47583
model code organization issues, with adaptations necessary to 47584
implement the code in this state. If the board of building 47585
standards decides not to adopt a code the committee recommends, 47586
the committee shall revise the code and resubmit it until the 47587
board adopts a code the committee recommends as the state 47588
residential building code; 47589

(2) Advise the board regarding the establishment of standards 47590
for certification of building officials who enforce the state 47591
residential building code; 47592

(3) Assist the board in providing information and guidance to 47593
residential contractors and building officials who enforce the 47594
state residential building code; 47595

(4) Advise the board regarding the interpretation of the 47596
state residential building code; 47597

(5) Provide other assistance the committee considers necessary; 47598
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(6) Provide the board with a written report of the committee's findings for each consideration required by division (D) of this section. 47600
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(D) The committee shall not make its recommendation to the board pursuant to divisions (C)(1), (2), and (4) of this section until the advisory committee has considered all of the following: 47603
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(1) The impact that the state residential building code may have upon the health, safety, and welfare of the public; 47606
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(2) The economic reasonableness of the residential building code; 47608
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(3) The technical feasibility of the residential building code; 47610
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(4) The financial impact that the residential building code may have on the public's ability to purchase affordable housing. 47612
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(E) The advisory committee may provide the board with any rule the committee recommends to update or amend the state residential building code or any rule that the committee recommends to update or amend the state residential building code after receiving a petition described in division (A)(2) of section 3781.12 of the Revised Code. 47614
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(F) Members of the advisory committee shall receive no salary for the performance of their duties as members, but shall receive their actual and necessary expenses incurred in the performance of their duties as members of the advisory committee and shall receive a per diem for each day in attendance at an official meeting of the committee, to be paid from the ~~labor~~ industrial compliance operating fund in the state treasury, using fees collected in connection with residential buildings pursuant to 47620
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division (F)(2) of section 3781.102 of the Revised Code and 47628
deposited in that fund. 47629

(G) The advisory committee is not subject to divisions (A) 47630
and (B) of section 101.84 of the Revised Code. 47631

Sec. 4743.05. Except as otherwise provided in sections 47632
4701.20, 4723.062, 4723.082, ~~and~~ 4729.65, 4781.121, and 4781.28 of 47633
the Revised Code, all money collected under Chapters 3773., 4701., 47634
4703., 4709., 4713., 4715., 4717., 4723., 4725., 4729., 4732., 47635
4733., 4734., 4736., 4741., 4753., 4755., 4757., 4758., 4759., 47636
4761., 4766., 4771., 4775., 4779., and 4781. of the Revised Code 47637
shall be paid into the state treasury to the credit of the 47638
occupational licensing and regulatory fund, which is hereby 47639
created for use in administering such chapters. 47640

At the end of each quarter, the director of budget and 47641
management shall transfer from the occupational licensing and 47642
regulatory fund to the nurse education assistance fund created in 47643
section 3333.28 of the Revised Code the amount certified to the 47644
director under division (B) of section 4723.08 of the Revised 47645
Code. 47646

At the end of each quarter, the director shall transfer from 47647
the occupational licensing and regulatory fund to the certified 47648
public accountant education assistance fund created in section 47649
4701.26 of the Revised Code the amount certified to the director 47650
under division (H)(2) of section 4701.10 of the Revised Code. 47651

Sec. 4763.05. (A)(1)(a) A person shall make application for 47652
an initial state-certified general real estate appraiser 47653
certificate, an initial state-certified residential real estate 47654
appraiser certificate, an initial state-licensed residential real 47655
estate appraiser license, or an initial state-registered real 47656
estate appraiser assistant registration in writing to the 47657

superintendent of real estate on a form the superintendent 47658
prescribes. The application shall include the address of the 47659
applicant's principal place of business and all other addresses at 47660
which the applicant currently engages in the business of preparing 47661
real estate appraisals and the address of the applicant's current 47662
residence. The superintendent shall retain the applicant's current 47663
residence address in a separate record which ~~shall~~ does not 47664
constitute a public record for purposes of section ~~149.03~~ 149.43 47665
of the Revised Code. The application shall indicate whether the 47666
applicant seeks certification as a general real estate appraiser 47667
or as a residential real estate appraiser, licensure as a 47668
residential real estate appraiser, or registration as a real 47669
estate appraiser assistant and be accompanied by the prescribed 47670
examination and certification, registration, or licensure fees set 47671
forth in section 4763.09 of the Revised Code. The application also 47672
shall include a pledge, signed by the applicant, that the 47673
applicant will comply with the standards set forth in this 47674
chapter; and a statement that the applicant understands the types 47675
of misconduct for which disciplinary proceedings may be initiated 47676
against the applicant pursuant to this chapter. 47677

(b) Upon the filing of an application and payment of any 47678
examination and certification, registration, or licensure fees, 47679
the superintendent of real estate shall request the superintendent 47680
of the bureau of criminal identification and investigation, or a 47681
vendor approved by the bureau, to conduct a criminal records check 47682
based on the applicant's fingerprints in accordance with ~~division~~ 47683
~~(A)(11)~~ of section 109.572 of the Revised Code. Notwithstanding 47684
division (K) of section 121.08 of the Revised Code, the 47685
superintendent of real estate shall request that criminal record 47686
information from the federal bureau of investigation be obtained 47687
as part of the criminal records check. Any fee required under 47688
division (C)(3) of section 109.572 of the Revised Code shall be 47689
paid by the applicant. 47690

(2) For purposes of providing funding for the real estate appraiser recovery fund established by section 4763.16 of the Revised Code, the real estate appraiser board shall levy an assessment against each person issued an initial certificate, registration, or license and against current licensees, registrants, and certificate holders, as required by board rule. The assessment is in addition to the application and examination fees for initial applicants required by division (A)(1) of this section and the renewal fees required for current certificate holders, registrants, and licensees. The superintendent of real estate shall deposit the assessment into the state treasury to the credit of the real estate appraiser recovery fund. The assessment for initial certificate holders, registrants, and licensees shall be paid prior to the issuance of a certificate, registration, or license, and for current certificate holders, registrants, and licensees, at the time of renewal.

(B) An applicant for an initial general real estate appraiser certificate, residential real estate appraiser certificate, or residential real estate appraiser license shall possess experience in real estate appraisal as the board prescribes by rule. In addition to any other information required by the board, the applicant shall furnish, under oath, a detailed listing of the appraisal reports or file memoranda for each year for which experience is claimed and, upon request of the superintendent or the board, shall make available for examination a sample of the appraisal reports prepared by the applicant in the course of the applicant's practice.

(C) An applicant for an initial certificate, registration, or license shall be at least eighteen years of age, honest, truthful, and of good reputation and shall present satisfactory evidence to the superintendent that the applicant has successfully completed any education requirements the board prescribes by rule.

(D) An applicant for an initial general real estate appraiser 47723
or residential real estate appraiser certificate or residential 47724
real estate appraiser license shall take and successfully complete 47725
a written examination in order to qualify for the certificate or 47726
license. 47727

The board shall prescribe the examination requirements by 47728
rule. 47729

(E)(1) A nonresident, natural person of this state who has 47730
complied with this section may obtain a certificate, registration, 47731
or license. The board shall adopt rules relating to the 47732
certification, registration, and licensure of a nonresident 47733
applicant whose state of residence the board determines to have 47734
certification, registration, or licensure requirements that are 47735
substantially similar to those set forth in this chapter and the 47736
rules adopted thereunder. 47737

(2) The board shall recognize on a temporary basis a 47738
certification or license issued in another state and shall 47739
register on a temporary basis an appraiser who is certified or 47740
licensed in another state if all of the following apply: 47741

(a) The temporary registration is to perform an appraisal 47742
assignment that is part of a federally related transaction. 47743

(b) The appraiser's business in this state is of a temporary 47744
nature. 47745

(c) The appraiser registers with the board pursuant to this 47746
division. 47747

An appraiser who is certified or licensed in another state 47748
shall register with the board for temporary practice before 47749
performing an appraisal assignment in this state in connection 47750
with a federally related transaction. 47751

The board shall adopt rules relating to registration for the 47752

temporary recognition of certification and licensure of appraisers 47753
from another state. The registration for temporary recognition of 47754
certified or licensed appraisers from another state shall not 47755
authorize completion of more than one appraisal assignment in this 47756
state. The board shall not issue more than two registrations for 47757
temporary practice to any one applicant in any calendar year. 47758

(3) In addition to any other information required to be 47759
submitted with the nonresident applicant's or appraiser's 47760
application for a certificate, registration, license, or temporary 47761
recognition of a certificate or license, each nonresident 47762
applicant or appraiser shall submit a statement consenting to the 47763
service of process upon the nonresident applicant or appraiser by 47764
means of delivering that process to the secretary of state if, in 47765
an action against the applicant, certificate holder, registrant, 47766
or licensee arising from the applicant's, certificate holder's, 47767
registrant's, or licensee's activities as a certificate holder, 47768
registrant, or licensee, the plaintiff, in the exercise of due 47769
diligence, cannot effect personal service upon the applicant, 47770
certificate holder, registrant, or licensee. 47771

(F) The superintendent shall not issue a certificate, 47772
registration, or license to, or recognize on a temporary basis an 47773
appraiser from another state that is a corporation, partnership, 47774
or association. This prohibition shall not be construed to prevent 47775
a certificate holder or licensee from signing an appraisal report 47776
on behalf of a corporation, partnership, or association. 47777

(G) Every person licensed, registered, or certified under 47778
this chapter shall notify the superintendent, on a form provided 47779
by the superintendent, of a change in the address of the 47780
licensee's, registrant's, or certificate holder's principal place 47781
of business or residence within thirty days of the change. If a 47782
licensee's, registrant's, or certificate holder's license, 47783
registration, or certificate is revoked or not renewed, the 47784

licensee, registrant, or certificate holder immediately shall 47785
return the annual and any renewal certificate, registration, or 47786
license to the superintendent. 47787

(H)(1) The superintendent shall not issue a certificate, 47788
registration, or license to any person, or recognize on a 47789
temporary basis an appraiser from another state, who does not meet 47790
applicable minimum criteria for state certification, registration, 47791
or licensure prescribed by federal law or rule. 47792

(2) The superintendent shall not issue a general real estate 47793
appraiser certificate, residential real estate appraiser 47794
certificate, residential real estate appraiser license, or real 47795
estate appraiser assistant registration to any person who has been 47796
convicted of or pleaded guilty to any criminal offense involving 47797
theft, receiving stolen property, embezzlement, forgery, fraud, 47798
passing bad checks, money laundering, or drug trafficking, or any 47799
criminal offense involving money or securities, including a 47800
violation of an existing or former law of this state, any other 47801
state, or the United States that substantially is equivalent to 47802
such an offense. However, if the applicant has pleaded guilty to 47803
or been convicted of such an offense, the superintendent shall not 47804
consider the offense if the applicant has proven to the 47805
superintendent, by a preponderance of the evidence, that the 47806
applicant's activities and employment record since the conviction 47807
show that the applicant is honest, truthful, and of good 47808
reputation, and there is no basis in fact for believing that the 47809
applicant will commit such an offense again. 47810

Sec. 4765.02. (A)(1) There is hereby created the state board 47811
of emergency medical, fire, and transportation services within the 47812
division of emergency medical services of the department of public 47813
safety. The board shall consist of the members specified in this 47814
section who are residents of this state. The governor, with the 47815

advice and consent of the senate, shall appoint all members of the board, except the employee of the department of public safety designated by the director of public safety under this section to be a member of the board. In making the appointments, the governor shall appoint only members with background or experience in emergency medical services or trauma care and shall attempt to include members representing urban and rural areas, various geographical regions of the state, and various schools of training.

(2) One member of the board shall be a physician certified by the American board of emergency medicine or the American osteopathic board of emergency medicine who is active in the practice of emergency medicine and is actively involved with an emergency medical service organization. The governor shall appoint this member from among three persons nominated by the Ohio chapter of the American college of emergency physicians and three persons nominated by the Ohio osteopathic association. One member shall be a physician certified by the American board of surgery or the American osteopathic board of surgery who is active in the practice of trauma surgery and is actively involved with emergency medical services. The governor shall appoint this member from among three persons nominated by the Ohio chapter of the American college of surgeons and three persons nominated by the Ohio osteopathic association. One member shall be a physician certified by the American academy of pediatrics or American osteopathic board of pediatrics who is active in the practice of pediatric emergency medicine and actively involved with an emergency medical service organization. The governor shall appoint this member from among three persons nominated by the Ohio chapter of the American academy of pediatrics and three persons nominated by the Ohio osteopathic association. ~~One member shall be the administrator of an adult or pediatric trauma center. The governor shall appoint this member from among three persons nominated by the OHA: the~~

~~association for hospitals and health systems, three persons~~ 47849
~~nominated by the Ohio osteopathic association, three persons~~ 47850
~~nominated by the association of Ohio children's hospitals, and~~ 47851
~~three persons nominated by the health forum of Ohio. One member~~ 47852
~~shall be the administrator of a hospital that is not a trauma~~ 47853
~~center located in this state. The governor shall appoint this~~ 47854
member from among three persons nominated by OHA: the association 47855
for hospitals and health systems, three persons nominated by the 47856
Ohio osteopathic association, and three persons nominated by the 47857
association of Ohio children's hospitals, ~~and three persons~~ 47858
~~nominated by the health forum of Ohio. One member shall be a~~ 47859
registered nurse with EMS certification who ~~is in the active~~ 47860
~~practice of emergency nursing performs mobile intensive care or~~ 47861
air medical transport. The governor shall appoint this member from 47862
among three persons nominated by the Ohio nurses association and 47863
three persons nominated by the Ohio state council of the emergency 47864
nurses association. One member shall be the chief of a fire 47865
department that is also an emergency medical service organization 47866
in which more than fifty per cent of the persons who provide 47867
emergency medical services are full-time paid employees. The 47868
governor shall appoint this member from among three persons 47869
nominated by the Ohio fire chiefs' association. One member shall 47870
be the chief of a fire department that is also an emergency 47871
medical service organization in which more than fifty per cent of 47872
the persons who provide emergency medical services are volunteers. 47873
The governor shall appoint this member from among three persons 47874
nominated by the Ohio fire chiefs' association. One member shall 47875
be a person who is certified to teach under section 4765.23 of the 47876
Revised Code ~~or, if the board has not yet certified persons to~~ 47877
~~teach under that section, a person who is qualified to be~~ 47878
~~certified to teach under that section~~ and holds a valid 47879
certificate to practice as an EMT, advanced EMT, or paramedic. The 47880
governor shall appoint this member from among three persons 47881

47882 nominated by the Ohio emergency medical technician instructors
47883 association and the Ohio instructor/coordinators' society. One
47884 member shall be an ~~EMT basic, one shall be an EMT-I~~ EMT, advanced
47885 EMT, or paramedic, and one member shall be a paramedic. The
47886 governor shall appoint these members from among three ~~EMTs basic,~~
47887 ~~three EMTs-I,~~ EMTs or advanced EMTs and three paramedics nominated
47888 by the Ohio association of professional fire fighters ~~and three~~
47889 ~~EMTs basic, three EMTs-I, and three paramedics nominated by the~~
47890 ~~northern Ohio fire fighters.~~ One member shall be an ~~EMT basic, one~~
47891 ~~shall be an EMT-I~~ EMT, advanced EMT, or paramedic, and one member
47892 shall be a paramedic ~~whom the.~~ The governor shall appoint these
47893 members from among three ~~EMTs basic, three EMTs-I,~~ EMTs or
47894 advanced EMTs and three paramedics nominated by the Ohio state
47895 firefighter's association. One member shall be a person whom the
47896 governor shall appoint from among an ~~EMT basic, an EMT-I, and~~ EMT,
47897 an advanced EMT, or a paramedic nominated by the Ohio association
47898 of emergency medical services or the Ohio ambulance and medical
47899 transportation association. One member shall be an EMT, an
47900 advanced EMT, or a paramedic, whom the governor shall appoint from
47901 among three persons nominated by the Ohio ambulance and medical
47902 transportation association. One member shall be a paramedic, whom
47903 the governor shall appoint from among three persons nominated by
47904 the Ohio ambulance and medical transportation association. The
47905 governor shall appoint one member who is an ~~EMT basic, EMT-I, or~~
47906 ~~paramedic affiliated with an emergency medical services~~
47907 ~~organization. One member shall be a member of the Ohio ambulance~~
47908 ~~association whom the governor shall appoint from among three~~
47909 ~~persons nominated by the Ohio ambulance association. One member~~
47910 ~~shall be a physician certified by the American board of surgery,~~
47911 ~~American board of osteopathic surgery, American osteopathic board~~
47912 ~~of emergency medicine, or American board of emergency medicine who~~
47913 ~~is the chief medical officer of an air medical agency and is~~
47914 ~~currently active in providing emergency medical services. The~~

~~governor shall appoint this member from among three persons 47915
nominated by the Ohio association of air medical services. One 47916
member shall be the owner or operator of a private emergency 47917
medical service organization whom the governor shall appoint from 47918
among three persons nominated by the Ohio ambulance and medical 47919
transportation association. One member shall be a provider of 47920
mobile intensive care unit transportation in this state whom the 47921
governor shall appoint from among three persons nominated by the 47922
Ohio association of critical care transport and three persons 47923
nominated by the Ohio ambulance and transportation association. 47924
One member shall be a provider of air-medical transportation in 47925
this state whom the governor shall appoint from among three 47926
persons nominated by the Ohio association of critical care 47927
transport and three persons nominated by the Ohio ambulance and 47928
medical transportation association. One member shall be the owner 47929
or operator of a nonemergency medical service organization in this 47930
state that provides ambulance services whom the governor shall 47931
appoint from among three persons nominated by the Ohio ambulance 47932
and medical transportation association. 47933~~

The governor may refuse to appoint any of the persons 47934
nominated by one or more organizations under division (A)(2) of 47935
this section, except the employee of the department of public 47936
safety designated by the director of public safety under this 47937
section to be a member of the board. In that event, the 47938
organization or organizations shall continue to nominate the 47939
required number of persons until the governor appoints to the 47940
board one or more of the persons nominated by the organization or 47941
organizations. 47942

The director of public safety shall designate an employee of 47943
the department of public safety to serve as a member of the board 47944
at the director's pleasure. This member shall serve as a liaison 47945
between the department and the division of emergency medical 47946

services in cooperation with the executive director of the board. 47947

~~Initial appointments to the board by the governor and the 47948
director of public safety shall be made within ninety days after 47949
November 12, 1992. Of the initial appointments by the governor, 47950
five shall be for terms ending one year after November 12, 1992, 47951
six shall be for terms ending two years after November 12, 1992, 47952
and six shall be for terms ending three years after November 12, 47953
1992. Within ninety days after the effective date of this 47954
amendment, the governor shall appoint the member of the board who 47955
is the chief medical officer of an air medical agency for an 47956
initial term ending November 12, 2000. Thereafter, terms 47957~~

(B) Terms of office of all members appointed by the governor 47958
shall be for three years, each term ending on the same day of the 47959
same month as did the term it succeeds. Each member shall hold 47960
office from the date of appointment until the end of the term for 47961
which the member was appointed. A member shall continue in office 47962
subsequent to the expiration date of the member's term until the 47963
member's successor takes office, or until a period of sixty days 47964
has elapsed, whichever occurs first. 47965

Each vacancy shall be filled in the same manner as the 47966
original appointment. A member appointed to fill a vacancy 47967
occurring prior to the expiration of the term for which the 47968
member's predecessor was appointed shall hold office for the 47969
remainder of the unexpired term. 47970

The term of a member shall expire if the member ceases to 47971
meet any of the requirements to be appointed as that member. The 47972
governor may remove any member from office for neglect of duty, 47973
malfeasance, misfeasance, or nonfeasance, after an adjudication 47974
hearing held in accordance with Chapter 119. of the Revised Code. 47975

(C) The members of the board shall serve without compensation 47976
but shall be reimbursed for their actual and necessary expenses 47977

incurred in carrying out their duties as board members. 47978

(D) The board shall organize by annually selecting a chair 47979
and vice-chair from among its members. The board may adopt bylaws 47980
to regulate its affairs. A majority of all members of the board 47981
shall constitute a quorum. No action shall be taken without the 47982
concurrence of a majority of all members of the board. The board 47983
shall meet at least four times annually and at the call of the 47984
chair. The chair shall call a meeting on the request of the 47985
executive director or the medical director of the board or on the 47986
written request of five members. The board shall maintain written 47987
or electronic records of its meetings. 47988

(E) Upon twenty-four hours' notice from a member of the 47989
board, the member's employer shall release the member from the 47990
member's employment duties to attend meetings of the full board. 47991
Nothing in this ~~paragraph~~ division requires the employer of a 47992
member of the board to compensate the member for time the member 47993
is released from employment duties under this paragraph, but any 47994
civil immunity, workers' compensation, disability, or similar 47995
coverage that applies to a member of the board as a result of the 47996
member's employment shall continue to apply while the member is 47997
released from employment duties under this paragraph. 47998

Sec. 4765.03. (A) The director of public safety shall appoint 47999
a full-time executive director for the state board of emergency 48000
medical and transportation services. The executive director shall 48001
be knowledgeable in emergency medical services and trauma care and 48002
shall serve at the pleasure of the director of public safety. The 48003
director of public safety shall appoint the executive director 48004
from among three persons nominated by the board. The director of 48005
public safety may refuse, for cause, to appoint any of the board's 48006
nominees. If the director fails to appoint any of the board's 48007
nominees, the board shall continue to nominate groups of three 48008

persons until the director does appoint one of the board's 48009
nominees. The executive director shall serve as the chief 48010
executive officer of the board and as the executive director of 48011
the division of emergency medical services. The executive director 48012
shall attend each meeting of the board, except the board may 48013
exclude the executive director from discussions concerning the 48014
employment or performance of the executive director or medical 48015
director of the board. The executive director shall give a surety 48016
bond to the state in such sum as the board determines, conditioned 48017
on the faithful performance of the duties of the executive 48018
director's office. The executive director shall receive a salary 48019
from the board and shall be reimbursed for actual and necessary 48020
expenses incurred in carrying out duties as executive director. 48021

48022

The executive director shall submit a report to the director 48023
of public safety at least every three months regarding the status 48024
of emergency medical services in this state. The executive 48025
director shall meet with the director of public safety at the 48026
director's request. 48027

(B) The board shall appoint a medical director, who shall 48028
serve at the pleasure of the board. The medical director shall be 48029
a physician certified by the American board of emergency medicine 48030
or the American osteopathic board of emergency medicine who is 48031
active in the practice of emergency medicine and has been actively 48032
involved with an emergency medical service organization for at 48033
least five years prior to being appointed. The board shall 48034
consider any recommendations for this appointment from the Ohio 48035
chapter of the American college of emergency physicians, the Ohio 48036
chapter of the American college of surgeons, the Ohio chapter of 48037
the American academy of pediatrics, the Ohio osteopathic 48038
association, and the Ohio state medical association. 48039

The medical director shall direct the executive director and 48040

advise the board with regard to adult and pediatric trauma and 48041
emergency medical services issues. The medical director shall 48042
attend each meeting of the board, except the board may exclude the 48043
medical director from discussions concerning the appointment or 48044
performance of the medical director or executive director of the 48045
board. The medical director shall be employed and paid by the 48046
board and shall be reimbursed for actual and necessary expenses 48047
incurred in carrying out duties as medical director. 48048

(C) The board may appoint employees as it determines 48049
necessary. The board shall prescribe the duties and titles of its 48050
employees. 48051

Sec. 4765.04. (A) The firefighter and fire safety inspector 48052
training committee of the state board of emergency medical, fire, 48053
and transportation services is hereby created and shall consist of 48054
the members of the board who are chiefs of fire departments, and 48055
the members of the board who are emergency medical 48056
technicians-basic, emergency medical technicians-intermediate, and 48057
emergency medical technicians-paramedic appointed from among 48058
persons nominated by the Ohio association of professional fire 48059
fighters or the northern Ohio fire fighters and from among persons 48060
nominated by the Ohio state firefighter's association. Each member 48061
of the committee, except the chairperson, may designate a person 48062
with fire experience to serve in that member's place. The members 48063
of the committee or their designees shall select a chairperson 48064
from among the members or their designees. 48065

The committee may conduct investigations in the course of 48066
discharging its duties under this chapter. In the course of an 48067
investigation, the committee may issue subpoenas. If a person 48068
subpoenaed fails to comply with the subpoena, the committee may 48069
authorize its chairperson to apply to the court of common pleas in 48070
the county where the person to be subpoenaed resides for an order 48071

compelling compliance in the same manner as compliance with a 48072
subpoena issued by the court is compelled. 48073

(B) The trauma committee of the state board of emergency 48074
medical, fire, and transportation services is hereby created and 48075
shall consist of the following members appointed by the director 48076
of public safety: 48077

(1) A physician who is certified by the American board of 48078
surgery or American osteopathic board of surgery and actively 48079
practices general trauma surgery, appointed from among three 48080
persons nominated by the Ohio chapter of the American college of 48081
surgeons, three persons nominated by the Ohio state medical 48082
association, and three persons nominated by the Ohio osteopathic 48083
association; 48084

(2) A physician who is certified by the American board of 48085
surgery or the American osteopathic board of surgery and actively 48086
practices orthopedic trauma surgery, appointed from among three 48087
persons nominated by the Ohio orthopedic society and three persons 48088
nominated by the Ohio osteopathic association; 48089

(3) A physician who is certified by the American board of 48090
neurological surgeons or the American osteopathic board of surgery 48091
and actively practices neurosurgery on trauma victims, appointed 48092
from among three persons nominated by the Ohio state neurological 48093
society and three persons nominated by the Ohio osteopathic 48094
association; 48095

(4) A physician who is certified by the American board of 48096
surgeons or American osteopathic board of surgeons and actively 48097
specializes in treating burn victims, appointed from among three 48098
persons nominated by the Ohio chapter of the American college of 48099
surgeons and three persons nominated by the Ohio osteopathic 48100
association; 48101

(5) A dentist who is certified by the American board of oral 48102

and maxillofacial surgery and actively practices oral and 48103
maxillofacial surgery, appointed from among three persons 48104
nominated by the Ohio dental association; 48105

(6) A physician who is certified by the American board of 48106
physical medicine and rehabilitation or American osteopathic board 48107
of rehabilitation medicine and actively provides rehabilitative 48108
care to trauma victims, appointed from among three persons 48109
nominated by the Ohio society of physical medicine and 48110
rehabilitation and three persons nominated by the Ohio osteopathic 48111
association; 48112

(7) A physician who is certified by the American board of 48113
surgery or American osteopathic board of surgery with special 48114
qualifications in pediatric surgery and actively practices 48115
pediatric trauma surgery, appointed from among three persons 48116
nominated by the Ohio chapter of the American academy of 48117
pediatrics and three persons nominated by the Ohio osteopathic 48118
association; 48119

(8) A physician who is certified by the American board of 48120
emergency medicine or American osteopathic board of emergency 48121
medicine, actively practices emergency medicine, and is actively 48122
involved in emergency medical services, appointed from among three 48123
persons nominated by the Ohio chapter of the American college of 48124
emergency physicians and three persons nominated by the Ohio 48125
osteopathic association; 48126

(9) A physician who is certified by the American board of 48127
pediatrics, American osteopathic board of pediatrics, or American 48128
board of emergency medicine, is sub-boarded in pediatric emergency 48129
medicine, actively practices pediatric emergency medicine, and is 48130
actively involved in emergency medical services, appointed from 48131
among three persons nominated by the Ohio chapter of the American 48132
academy of pediatrics, three persons nominated by the Ohio chapter 48133
of the American college of emergency physicians, and three persons 48134

nominated by the Ohio osteopathic association; 48135

(10) A physician who is certified by the American board of 48136
surgery, American osteopathic board of surgery, or American board 48137
of emergency medicine and is the chief medical officer of an air 48138
medical organization, appointed from among three persons nominated 48139
by the Ohio association of air medical services; 48140

(11) A coroner or medical examiner appointed from among three 48141
people nominated by the Ohio state coroners' association; 48142

(12) A registered nurse who actively practices trauma nursing 48143
at an adult or pediatric trauma center, appointed from among three 48144
persons nominated by the Ohio association of trauma nurse 48145
coordinators; 48146

(13) A registered nurse who actively practices emergency 48147
nursing and is actively involved in emergency medical services, 48148
appointed from among three persons nominated by the Ohio chapter 48149
of the emergency nurses' association; 48150

(14) The chief trauma registrar of an adult or pediatric 48151
trauma center, appointed from among three persons nominated by the 48152
alliance of Ohio trauma registrars; 48153

(15) The administrator of an adult or pediatric trauma 48154
center, appointed from among three persons nominated by OHA: the 48155
association for hospitals and health systems, three persons 48156
nominated by the Ohio osteopathic association, three persons 48157
nominated by the association of Ohio children's hospitals, and 48158
three persons nominated by the health forum of Ohio; 48159

(16) The administrator of a hospital that is not a trauma 48160
center and actively provides emergency care to adult or pediatric 48161
trauma patients, appointed from among three persons nominated by 48162
OHA: the association for hospitals and health systems, three 48163
persons nominated by the Ohio osteopathic association, three 48164
persons nominated by the association of Ohio children's hospitals, 48165

and three persons nominated by the health forum of Ohio; 48166

(17) The operator of an ambulance company that actively 48167
provides trauma care to emergency patients, appointed from among 48168
three persons nominated by the Ohio ambulance association; 48169

(18) The chief of a fire department that actively provides 48170
trauma care to emergency patients, appointed from among three 48171
persons nominated by the Ohio fire chiefs' association; 48172

(19) An EMT or paramedic who is certified under this chapter 48173
and actively provides trauma care to emergency patients, appointed 48174
from among three persons nominated by the Ohio association of 48175
professional firefighters, three persons nominated by the northern 48176
Ohio fire fighters, three persons nominated by the Ohio state 48177
firefighters' association, and three persons nominated by the Ohio 48178
association of emergency medical services; 48179

(20) A person who actively advocates for trauma victims, 48180
appointed from three persons nominated by the Ohio brain injury 48181
association and three persons nominated by the governor's council 48182
on people with disabilities; 48183

(21) A physician or nurse who has substantial administrative 48184
responsibility for trauma care provided in or by an adult or 48185
pediatric trauma center, appointed from among three persons 48186
nominated by OHA: the association for hospitals and health 48187
systems, three persons nominated by the Ohio osteopathic 48188
association, three persons nominated by the association of Ohio 48189
children's hospitals, and three persons nominated by the health 48190
forum of Ohio; 48191

(22) Three representatives of hospitals that are not trauma 48192
centers and actively provide emergency care to trauma patients, 48193
appointed from among three persons nominated by OHA: the 48194
association for hospitals and health systems, three persons 48195
nominated by the Ohio osteopathic association, three persons 48196

nominated by the association of Ohio children's hospitals, and 48197
three persons nominated by the health forum of Ohio. The 48198
representatives may be hospital administrators, physicians, 48199
nurses, or other clinical professionals. 48200

Members of the committee shall have substantial experience in 48201
the categories they represent, shall be residents of this state, 48202
and may be members of the state board of emergency medical, fire, 48203
and transportation services. In appointing members of the 48204
committee, the director shall attempt to include members 48205
representing urban and rural areas, various geographical areas of 48206
the state, and various schools of training. The director shall not 48207
appoint to the committee more than one member who is employed by 48208
or practices at the same hospital, health system, or emergency 48209
medical service organization. 48210

The director may refuse to appoint any of the persons 48211
nominated by an organization or organizations under this division. 48212
In that event, the organization or organizations shall continue to 48213
nominate the required number of persons until the director 48214
appoints to the committee one or more of the persons nominated by 48215
the organization or organizations. 48216

Initial appointments to the committee shall be made by the 48217
director not later than ninety days after November 3, 2000. 48218
Members of the committee shall serve at the pleasure of the 48219
director, except that any member of the committee who ceases to be 48220
qualified for the position to which the member was appointed shall 48221
cease to be a member of the committee. Vacancies on the committee 48222
shall be filled in the same manner as original appointments. 48223

The members of the committee shall serve without compensation 48224
but shall be reimbursed for actual and necessary expenses incurred 48225
in carrying out duties as members of the committee. 48226

The committee shall select a chairperson and vice-chairperson 48227

from among its members. A majority of all members of the committee 48228
shall constitute a quorum. No action shall be taken without the 48229
concurrence of a majority of all members of the committee. The 48230
committee shall meet at the call of the chair, upon written 48231
request of five members of the committee, and at the direction of 48232
the state board of emergency medical, fire, and transportation 48233
services. The committee shall not meet at times or locations that 48234
conflict with meetings of the board. The executive director and 48235
medical director of the state board of emergency medical, fire, 48236
and transportation services may participate in any meeting of the 48237
committee and shall do so at the request of the committee. 48238

The committee shall advise and assist the state board of 48239
emergency medical, fire, and transportation services in matters 48240
related to adult and pediatric trauma care and the establishment 48241
and operation of the state trauma registry. In matters relating to 48242
the state trauma registry, the board and the committee shall 48243
consult with trauma registrars from adult and pediatric trauma 48244
centers in the state. The committee may appoint a subcommittee to 48245
advise and assist with the trauma registry. The subcommittee may 48246
include persons with expertise relevant to the trauma registry who 48247
are not members of the board or committee. 48248

(C) The state board of emergency medical, fire, and 48249
transportation services may appoint other committees and 48250
subcommittees as it considers necessary. 48251

(D) The state board of emergency medical, fire, and 48252
transportation services, and any of its committees or 48253
subcommittees, may request assistance from any state agency. The 48254
board and its committees and subcommittees may permit persons who 48255
are not members of those bodies to participate in deliberations of 48256
those bodies, but no person who is not a member of the board shall 48257
vote on the board and no person who is not a member of a committee 48258
created under division (A) or (B) of this section shall vote on 48259

that committee. 48260

(E) Sections 101.82 to 101.87 of the Revised Code do not 48261
apply to the committees established under division (A) or (B) of 48262
this section. 48263

Sec. 4765.05. (A) As used in this section, "prehospital 48264
emergency medical services" means an emergency medical services 48265
system that provides medical services to patients who require 48266
immediate assistance, because of illness or injury, prior to their 48267
arrival at an emergency medical facility. 48268

(B) The state board of emergency medical, fire, and 48269
transportation services shall divide the state geographically into 48270
prehospital emergency medical services regions for purposes of 48271
overseeing the delivery of adult and pediatric prehospital 48272
emergency medical services. For each prehospital emergency medical 48273
services region, the state board of emergency medical, fire, and 48274
transportation services shall appoint either a physician to serve 48275
as the regional director or a physician advisory board to serve as 48276
the regional advisory board. The state board of emergency medical, 48277
fire, and transportation services shall specify the duties of each 48278
regional director and regional advisory board. Regional directors 48279
and members of regional advisory boards shall serve without 48280
compensation, but shall be reimbursed for actual and necessary 48281
expenses incurred in carrying out duties as regional directors and 48282
members of regional advisory boards. 48283

(C) Nothing in this section shall be construed to limit in 48284
any way the ability of a hospital to determine the market area of 48285
that hospital. 48286

Sec. 4765.06. (A) The state board of emergency medical, fire, 48287
and transportation services shall establish an emergency medical 48288
services incidence reporting system for the collection of 48289

information regarding the delivery of emergency medical services 48290
in this state and the frequency at which the services are 48291
provided. All emergency medical service organizations shall submit 48292
to the board any information that the board determines is 48293
necessary for maintaining the incidence reporting system. 48294

(B) The board shall establish a state trauma registry to be 48295
used for the collection of information regarding the care of adult 48296
and pediatric trauma victims in this state. The registry shall 48297
provide for the reporting of adult and pediatric trauma-related 48298
deaths, identification of adult and pediatric trauma patients, 48299
monitoring of adult and pediatric trauma patient care data, 48300
determination of the total amount of uncompensated adult and 48301
pediatric trauma care provided annually by each facility that 48302
provides care to trauma victims, and collection of any other 48303
information specified by the board. All persons designated by the 48304
board shall submit to the board any information it determines is 48305
necessary for maintaining the state trauma registry. At the 48306
request of the board any state agency possessing information 48307
regarding adult or pediatric trauma care shall provide the 48308
information to the board. The board shall maintain the state 48309
trauma registry in accordance with rules adopted under section 48310
4765.11 of the Revised Code. 48311

Rules relating to the state trauma registry adopted under 48312
this section and section 4765.11 of the Revised Code shall not 48313
prohibit the operation of other trauma registries and may provide 48314
for the reporting of information to the state trauma registry by 48315
or through other trauma registries in a manner consistent with 48316
information otherwise reported to the state trauma registry. Other 48317
trauma registries may report aggregate information to the state 48318
trauma registry, provided the information can be matched to the 48319
person that reported it. Information maintained by another trauma 48320
registry and reported to the state trauma registry in lieu of 48321

being reported directly to the state trauma registry is a public 48322
record and shall be maintained, made available to the public, held 48323
in confidence, risk adjusted, and not subject to discovery or 48324
introduction into evidence in a civil action as provided in 48325
section 149.43 of the Revised Code and this section. Any person 48326
who provides, maintains, or risk adjusts such information shall 48327
comply with this section and rules adopted under it in performing 48328
that function and has the same immunities with respect to that 48329
function as a person who performs that function with respect to 48330
the state trauma registry. 48331

(C) The board and any employee or contractor of the board or 48332
the department of public safety shall not make public information 48333
it receives under Chapter 4765. of the Revised Code that 48334
identifies or would tend to identify a specific recipient of 48335
emergency medical services or adult or pediatric trauma care. 48336

(D) Not later than two years after ~~the effective date of this~~ 48337
~~amendment~~ November 3, 2000, the board shall adopt and implement 48338
rules under section 4765.11 of the Revised Code that provide 48339
written standards and procedures for risk adjustment of 48340
information received by the board under Chapter 4765. of the 48341
Revised Code. The rules shall be developed in consultation with 48342
appropriate medical, hospital, and emergency medical service 48343
organizations and may provide for risk adjustment by a contractor 48344
of the board. Before risk adjustment standards and procedures are 48345
implemented, no member of the board and no employee or contractor 48346
of the board or the department of public safety shall make public 48347
information received by the board under Chapter 4765. of the 48348
Revised Code that identifies or would tend to identify a specific 48349
provider of emergency medical services or adult or pediatric 48350
trauma care. After risk adjustment standards and procedures are 48351
implemented, the board shall make public such information only on 48352
a risk adjusted basis. 48353

(E) The board shall adopt rules under section 4765.11 of the Revised Code that specify procedures for ensuring the confidentiality of information that is not to be made public under this section. The rules shall specify the circumstances in which deliberations of the persons performing risk adjustment functions under this section are not open to the public and records of those deliberations are maintained in confidence. Nothing in this section prohibits the board from making public statistical information that does not identify or tend to identify a specific recipient or provider of emergency medical services or adult or pediatric trauma care.

(F) No provider that furnishes information to the board with respect to any patient the provider examined or treated shall, because of this furnishing, be deemed liable in damages to any person or be held to answer for betrayal of a professional confidence in the absence of willful or wanton misconduct. No such information shall be subject to introduction in evidence in any civil action against the provider. No provider that furnishes information to the board shall be liable for the misuse or improper release of the information by the board or any other person.

No person who performs risk adjustment functions under this section shall, because of performing such functions, be held liable in a civil action for betrayal of professional confidence or otherwise in the absence of willful or wanton misconduct.

Sec. 4765.07. (A) The state board of emergency medical, fire, and transportation services shall adopt rules under section 4765.11 of the Revised Code to establish and administer a grant program under which grants are distributed according to the following priorities:

(1) First priority shall be given to emergency medical

service organizations for the training of personnel, for the 48385
purchase of equipment and vehicles, and to improve the 48386
availability, accessibility, and quality of emergency medical 48387
services in this state. In this category, the board shall give 48388
priority to grants that fund training and equipping of emergency 48389
medical service personnel. 48390

(2) Second priority shall be given to entities that research, 48391
test, and evaluate medical procedures and systems related to adult 48392
and pediatric trauma care. 48393

(3) Third priority shall be given to entities that research 48394
the causes, nature, and effects of traumatic injuries, educate the 48395
public about injury prevention, and implement, test, and evaluate 48396
injury prevention strategies. 48397

(4) Fourth priority shall be given to entities that research, 48398
test, and evaluate procedures that promote the rehabilitation, 48399
retraining, and reemployment of adult or pediatric trauma victims 48400
and social service support mechanisms for adult or pediatric 48401
trauma victims and their families. 48402

(5) Fifth priority shall be given to entities that conduct 48403
research on, test, or evaluate one or more of the following: 48404

(a) Procedures governing the performance of emergency medical 48405
services in this state; 48406

(b) The training of emergency medical service personnel; 48407

(c) The staffing of emergency medical service organizations. 48408

(6) For grants distributed for the grant award years 48409
occurring not later than the award year ending June 30, 2017, 48410
sixth priority shall be given to entities that operate paramedic 48411
training programs and are seeking national accreditation of the 48412
programs. 48413

(B) To be eligible for a grant distributed pursuant to 48414

division (A)(6) of this section, an applicant for the grant shall 48415
meet all of the following conditions: 48416

(1) Hold a certificate of accreditation issued by the board 48417
under section 4765.17 of the Revised Code to operate a paramedic 48418
training program; 48419

(2) Be seeking initial national accreditation of the program 48420
from an accrediting organization approved by the board; 48421

(3) Apply for the national accreditation on or after February 48422
25, 2010. 48423

(C) The grant program shall be funded from the trauma and 48424
emergency medical services ~~grants~~ fund created by section 4513.263 48425
of the Revised Code. 48426

Sec. 4765.08. The state board of emergency medical, fire, and 48427
transportation services shall prepare a statewide emergency 48428
medical services plan and shall revise the plan as necessary. 48429

The board shall prepare a plan for the statewide regulation 48430
of emergency medical services during periods of disaster. The plan 48431
shall be consistent with the statewide emergency medical services 48432
plan required under this section and with the statewide emergency 48433
operations plan required under section 5502.22 of the Revised 48434
Code. The board shall submit the plan to the emergency management 48435
agency created under section 5502.22 of the Revised Code. The 48436
board shall cooperate with the agency in any other manner the 48437
agency considers necessary to develop and implement the statewide 48438
emergency operations plan. 48439

Sec. 4765.09. The state board of emergency medical, fire, and 48440
transportation services shall prepare recommendations for the 48441
operation of ambulance service organizations, air medical 48442
organizations, and emergency medical service organizations. Within 48443
thirty days following the preparation or modification of 48444

recommendations, the board shall notify the board of county 48445
commissioners of any county, the board of township trustees of any 48446
township, the board of trustees of any joint ambulance district, 48447
or the board of trustees of any joint emergency medical services 48448
district in which there exist ambulance service organizations, air 48449
medical organizations, or emergency medical service organizations 48450
of any board recommendations for the operation of such 48451
organizations. The recommendations shall include, but not be 48452
limited to: 48453

(A) The definition and classification of ambulances and 48454
medical aircraft; 48455

(B) The design, equipment, and supplies for ambulances and 48456
medical aircraft, including special equipment, supplies, training, 48457
and staffing required to assist pediatric and geriatric emergency 48458
victims; 48459

(C) The minimum number and type of personnel for the 48460
operation of ambulances and medical aircraft; 48461

(D) The communication systems necessary for the operation of 48462
ambulances and medical aircraft; 48463

(E) Reports to be made by persons holding certificates of 48464
accreditation or approval issued under section 4765.17 of the 48465
Revised Code and certificates to practice issued under section 48466
4765.30 of the Revised Code to ascertain compliance with this 48467
chapter and the rules and recommendations adopted thereunder and 48468
to ascertain the quantity and quality of ambulance service 48469
organizations, air medical organizations, and emergency medical 48470
service organizations throughout the state. 48471

Sec. 4765.10. (A) The state board of emergency medical, fire, 48472
and transportation services shall do all of the following: 48473

(1) Administer and enforce the provisions of this chapter and 48474

the rules adopted under it; 48475

(2) Approve, in accordance with procedures established in 48476
rules adopted under section 4765.11 of the Revised Code, 48477
examinations that demonstrate competence to have a certificate to 48478
practice renewed without completing a continuing education 48479
program; 48480

(3) Advise applicants for state or federal emergency medical 48481
services funds, review and comment on applications for these 48482
funds, and approve the use of all state and federal funds 48483
designated solely for emergency medical service programs unless 48484
federal law requires another state agency to approve the use of 48485
all such federal funds; 48486

(4) Serve as a statewide clearinghouse for discussion, 48487
inquiry, and complaints concerning emergency medical services; 48488

(5) Make recommendations to the general assembly on 48489
legislation to improve the delivery of emergency medical services; 48490

(6) Maintain a toll-free long distance telephone number 48491
through which it shall respond to questions about emergency 48492
medical services; 48493

(7) Work with appropriate state offices in coordinating the 48494
training of firefighters and emergency medical service personnel. 48495
Other state offices that are involved in the training of 48496
firefighters or emergency medical service personnel shall 48497
cooperate with the board and its committees and subcommittees to 48498
achieve this goal. 48499

(8) Provide a liaison to the state emergency operation center 48500
during those periods when a disaster, as defined in section 48501
5502.21 of the Revised Code, has occurred in this state and the 48502
governor has declared an emergency as defined in that section. 48503

(B) The board may do any of the following: 48504

(1) Investigate complaints concerning emergency medical services and emergency medical service organizations as it determines necessary;

(2) Enter into reciprocal agreements with other states that have standards for accreditation of emergency medical services training programs and for certification of first responders, EMTs-basic, EMTs-I, paramedics, firefighters, or fire safety inspectors that are substantially similar to those established under this chapter and the rules adopted under it;

(3) Establish a statewide public information system and public education programs regarding emergency medical services;

(4) Establish an injury prevention program.

Sec. 4765.101. (A) The state board of emergency medical, fire, and transportation services shall investigate any allegation that a person has violated this chapter or a rule adopted under it.

Any person may submit to the board a written complaint regarding an alleged violation of this chapter or a rule adopted under it. In the absence of fraud or bad faith, no person submitting a complaint to the board or testifying in an adjudication hearing conducted in accordance with Chapter 119. of the Revised Code with regard to such an alleged violation shall be liable to any person in damages in a civil action as a result of submitting the complaint or providing testimony.

(B) In investigating an allegation, the board may do any of the following:

(1) Administer oaths;

(2) Order the taking of depositions;

(3) Issue subpoenas;

(4) Compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony.

(C) A subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the executive director of the board. Before issuance of a subpoena for patient record information, the executive director shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or any rule adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

(D) On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move, pursuant to the Rules of Civil Procedure, for an order compelling the production of persons or records.

(E) A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or an investigator for the division of emergency medical services of the department of public safety. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named in it, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is an individual authorized by this chapter to practice emergency medical services, service of the subpoena may be made by certified mail, restricted delivery, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or on the date that the person refuses to accept delivery.

Sec. 4765.102. (A) As used in this section, "licensing agency" means any entity that has the authority pursuant to Title XLVII of the Revised Code to issue a license, and any other agency

of this or another state, other than the Ohio supreme court, that 48565
has the authority to issue a license that authorizes an individual 48566
to engage in an occupation or profession. "Licensing agency" 48567
includes an administrative officer that has authority to issue a 48568
license that authorizes an individual to engage in an occupation 48569
or profession. 48570

(B) Except as provided in divisions (C) and (D) of this 48571
section and section 4765.111 of the Revised Code, all information 48572
the state board of emergency medical, fire, and transportation 48573
services receives pursuant to an investigation, including 48574
information regarding an alleged violation of this chapter or 48575
rules adopted under it or a complaint submitted under division (A) 48576
of section 4765.101 of the Revised Code, is confidential, and is 48577
not subject to discovery in any civil action, during the course of 48578
the investigation and any adjudication proceedings that result 48579
from the investigation. Upon completion of the investigation and 48580
any resulting adjudication proceedings, the information is a 48581
matter of public record for purposes of section 149.43 of the 48582
Revised Code. 48583

(C) The board may release information otherwise made 48584
confidential by division (B) of this section to law enforcement 48585
officers or licensing agencies of this or another state that are 48586
prosecuting, adjudicating, or investigating the holder of a 48587
certificate issued under this chapter or a person who allegedly 48588
engaged in the unauthorized provision of emergency medical 48589
services. 48590

A law enforcement officer or licensing agency with 48591
information disclosed by the board under this division shall not 48592
divulge the information other than for the purpose of an 48593
adjudication by a court or licensing agency to which the subject 48594
of the adjudication is a party. 48595

(D) If an investigation conducted under section 4765.101 of 48596

the Revised Code requires a review of patient records, the 48597
investigation and proceedings related to it shall be conducted in 48598
such a manner as to protect patient confidentiality. The board 48599
shall not make public the name or any other identifying 48600
information about a patient unless proper consent is given in 48601
accordance with rules adopted by the board. If the patient is less 48602
than eighteen years of age, the board shall obtain consent from 48603
the patient's parent, guardian, or custodian. 48604

Sec. 4765.11. (A) The state board of emergency medical, fire, 48605
and transportation services shall adopt, and may amend and 48606
rescind, rules in accordance with Chapter 119. of the Revised Code 48607
and division (C) of this section that establish all of the 48608
following: 48609

(1) Procedures for its governance and the control of its 48610
actions and business affairs; 48611

(2) Standards for the performance of emergency medical 48612
services by first responders, emergency medical technicians-basic, 48613
emergency medical technicians-intermediate, and emergency medical 48614
technicians-paramedic; 48615

(3) Application fees for certificates of accreditation, 48616
certificates of approval, certificates to teach, and certificates 48617
to practice, which shall be deposited into the trauma and 48618
emergency medical services fund created in section 4513.263 of the 48619
Revised Code; 48620

(4) Criteria for determining when the application or renewal 48621
fee for a certificate to practice may be waived because an 48622
applicant cannot afford to pay the fee; 48623

(5) Procedures for issuance and renewal of certificates of 48624
accreditation, certificates of approval, certificates to teach, 48625
and certificates to practice, including any procedures necessary 48626

to ensure that adequate notice of renewal is provided in	48627
accordance with division (D) of section 4765.30 of the Revised	48628
Code;	48629
(6) Procedures for suspending or revoking certificates of	48630
accreditation, certificates of approval, certificates to teach,	48631
and certificates to practice;	48632
(7) Grounds for suspension or revocation of a certificate to	48633
practice issued under section 4765.30 of the Revised Code and for	48634
taking any other disciplinary action against a first responder,	48635
EMT-basic, EMT-I, or paramedic;	48636
(8) Procedures for taking disciplinary action against a first	48637
responder, EMT-basic, EMT-I, or paramedic;	48638
(9) Standards for certificates of accreditation and	48639
certificates of approval;	48640
(10) Qualifications for certificates to teach;	48641
(11) Requirements for a certificate to practice;	48642
(12) The curricula, number of hours of instruction and	48643
training, and instructional materials to be used in adult and	48644
pediatric emergency medical services training programs and adult	48645
and pediatric emergency medical services continuing education	48646
programs;	48647
(13) Procedures for conducting courses in recognizing	48648
symptoms of life-threatening allergic reactions and in calculating	48649
proper dosage levels and administering injections of epinephrine	48650
to adult and pediatric patients who suffer life-threatening	48651
allergic reactions;	48652
(14) Examinations for certificates to practice;	48653
(15) Procedures for administering examinations for	48654
certificates to practice;	48655
(16) Procedures for approving examinations that demonstrate	48656

competence to have a certificate to practice renewed without 48657
completing an emergency medical services continuing education 48658
program; 48659

(17) Procedures for granting extensions and exemptions of 48660
emergency medical services continuing education requirements; 48661

(18) Procedures for approving the additional emergency 48662
medical services first responders are authorized by division (C) 48663
of section 4765.35 of the Revised Code to perform, EMTs-basic are 48664
authorized by division (C) of section 4765.37 of the Revised Code 48665
to perform, EMTs-I are authorized by division (B)(5) of section 48666
4765.38 of the Revised Code to perform, and paramedics are 48667
authorized by division (B)(6) of section 4765.39 of the Revised 48668
Code to perform; 48669

(19) Standards and procedures for implementing the 48670
requirements of section 4765.06 of the Revised Code, including 48671
designations of the persons who are required to report information 48672
to the board and the types of information to be reported; 48673

(20) Procedures for administering the emergency medical 48674
services grant program established under section 4765.07 of the 48675
Revised Code; 48676

(21) Procedures consistent with Chapter 119. of the Revised 48677
Code for appealing decisions of the board; 48678

(22) Minimum qualifications and peer review and quality 48679
improvement requirements for persons who provide medical direction 48680
to emergency medical service personnel; 48681

(23) The manner in which a patient, or a patient's parent, 48682
guardian, or custodian may consent to the board releasing 48683
identifying information about the patient under division (D) of 48684
section 4765.102 of the Revised Code; 48685

(24) Circumstances under which a training program or 48686

continuing education program, or portion of either type of 48687
program, may be taught by a person who does not hold a certificate 48688
to teach issued under section 4765.23 of the Revised Code; 48689

(25) Certification cycles for certificates issued under 48690
sections 4765.23 and 4765.30 of the Revised Code and certificates 48691
issued by the executive director of the state board of emergency 48692
medical, fire, and transportation services under section 4765.55 48693
of the Revised Code that establish a common expiration date for 48694
all certificates. 48695

(B) The board may adopt, and may amend and rescind, rules in 48696
accordance with Chapter 119. of the Revised Code and division (C) 48697
of this section that establish the following: 48698

(1) Specifications of information that may be collected under 48699
the trauma system registry and incidence reporting system created 48700
under section 4765.06 of the Revised Code; 48701

(2) Standards and procedures for implementing any of the 48702
recommendations made by any committees of the board or under 48703
section 4765.04 of the Revised Code; 48704

(3) Requirements that a person must meet to receive a 48705
certificate to practice as a first responder pursuant to division 48706
(A)(2) of section 4765.30 of the Revised Code; 48707

(4) Any other rules necessary to implement this chapter. 48708

(C) In developing and administering rules adopted under this 48709
chapter, the state board of emergency medical, fire, and 48710
transportation services shall consult with regional directors and 48711
regional physician advisory boards created by section 4765.05 of 48712
the Revised Code and emphasize the special needs of pediatric and 48713
geriatric patients. 48714

(D) Except as otherwise provided in this division, before 48715
adopting, amending, or rescinding any rule under this chapter, the 48716

board shall submit the proposed rule to the director of public 48717
safety for review. The director may review the proposed rule for 48718
not more than sixty days after the date it is submitted. If, 48719
within this sixty-day period, the director approves the proposed 48720
rule or does not notify the board that the rule is disapproved, 48721
the board may adopt, amend, or rescind the rule as proposed. If, 48722
within this sixty-day period, the director notifies the board that 48723
the proposed rule is disapproved, the board shall not adopt, 48724
amend, or rescind the rule as proposed unless at least twelve 48725
members of the board vote to adopt, amend, or rescind it. 48726

This division does not apply to an emergency rule adopted in 48727
accordance with section 119.03 of the Revised Code. 48728

Sec. 4765.111. Except as provided in this section or sections 48729
4765.112 to 4765.116 of the Revised Code, the state board of 48730
emergency medical, fire, and transportation services shall conduct 48731
disciplinary proceedings regarding the holder of a certificate 48732
issued under this chapter in accordance with rules adopted by the 48733
board under section 4765.11 of the Revised Code. 48734

The board and a holder of a certificate are the parties to a 48735
hearing conducted under this chapter. Either party may submit a 48736
written request to the other party for a list of witnesses and 48737
copies of documents intended to be introduced at the hearing. The 48738
request shall be in writing and shall be served not less than 48739
thirty-seven days prior to the commencement of the hearing, unless 48740
the hearing officer or presiding board member grants an extension 48741
of time to make the request. Not later than thirty days before the 48742
hearing, the responding party shall provide the requested list of 48743
witnesses and copies of documents to the requesting party, unless 48744
the hearing officer or presiding board member grants an extension 48745
of time to provide the list and copies. 48746

Failure to timely provide a list or copies requested in 48747

accordance with this section shall result in exclusion from the 48748
hearing of the witnesses, testimony, or documents. 48749

Sec. 4765.112. (A) The state board of emergency medical, 48750
fire, and transportation services, by an affirmative vote of the 48751
majority of its members, may suspend without a prior hearing a 48752
certificate to practice issued under this chapter if the board 48753
determines that there is clear and convincing evidence that 48754
continued practice by the certificate holder presents a danger of 48755
immediate and serious harm to the public and that the certificate 48756
holder has done any of the following: 48757

(1) Furnished false, fraudulent, or misleading information to 48758
the board; 48759

(2) Engaged in activities that exceed those permitted by the 48760
individual's certificate; 48761

(3) In a court of this or any other state or federal court 48762
been convicted of, pleaded guilty to, or been the subject of a 48763
judicial finding of guilt of, a judicial finding of guilt 48764
resulting from a plea of no contest to, or a judicial finding of 48765
eligibility for intervention in lieu of conviction for, a felony 48766
or for a misdemeanor committed in the course of practice or 48767
involving gross immorality or moral turpitude. 48768

(B) Immediately following the decision to impose a summary 48769
suspension, the board, in accordance with section 119.07 of the 48770
Revised Code, shall issue a written order of suspension, cause it 48771
to be delivered to the certificate holder, and notify the 48772
certificate holder of the opportunity for a hearing. If timely 48773
requested by the certificate holder, a hearing shall be conducted 48774
in accordance with section 4765.115 of the Revised Code. 48775

Sec. 4765.113. If the state board of emergency medical, fire, 48776
and transportation services imposes a suspension on the basis of a 48777

conviction, judicial finding, or plea as described in division 48778
(A)(3) of section 4765.112 of the Revised Code that is overturned 48779
on appeal, the certificate holder, on exhaustion of the criminal 48780
appeal process, may file with the board a petition for 48781
reconsideration of the suspension along with appropriate court 48782
documents. On receipt of the petition and documents, the board 48783
shall reinstate the certificate holder's certificate to practice. 48784

Sec. 4765.114. (A) A certificate to practice emergency 48785
medical services issued under this chapter is automatically 48786
suspended on the certificate holder's conviction of, plea of 48787
guilty to, or judicial finding of guilt of any of the following: 48788
aggravated murder, murder, voluntary manslaughter, felonious 48789
assault, kidnapping, rape, sexual battery, gross sexual 48790
imposition, aggravated arson, aggravated burglary, aggravated 48791
robbery, or a substantially equivalent offense committed in this 48792
or another jurisdiction. Continued practice after the suspension 48793
is practicing without a certificate. 48794

(B) If the state board of emergency medical, fire, and 48795
transportation services has knowledge that an automatic suspension 48796
has occurred, it shall notify, in accordance with section 119.07 48797
of the Revised Code, the certificate holder of the suspension and 48798
of the opportunity for a hearing. If timely requested by the 48799
certificate holder, a hearing shall be conducted in accordance 48800
with section 4765.115 of the Revised Code. 48801

Sec. 4765.115. (A) A suspension order issued under section 48802
4765.112 or automatic suspension under section 4765.114 of the 48803
Revised Code is not subject to suspension by a court prior to a 48804
hearing under this section or during the pendency of any appeal 48805
filed under section 119.12 of the Revised Code. 48806

(B) A suspension order issued under section 4765.112 or 48807

automatic suspension under section 4765.114 of the Revised Code 48808
remains in effect, unless reversed by the state board of emergency 48809
medical, fire, and transportation services, until a final 48810
adjudication order issued by the board pursuant to this section 48811
becomes effective. 48812

(C) Hearings requested pursuant to section 4765.112 or 48813
4765.114 of the Revised Code shall be conducted under this section 48814
in accordance with Chapter 119. of the Revised Code. 48815

(D) A hearing under this section shall be held not later than 48816
forty-five days but not earlier than forty days after the 48817
certificate holder requests it, unless another date is agreed to 48818
by the certificate holder and the board. 48819

(E) After completion of an adjudication hearing, the board 48820
may adopt, by an affirmative vote of the majority of its members, 48821
a final adjudication order that imposes any of the following 48822
sanctions: 48823

(1) Suspension of the holder's certificate to practice; 48824

(2) Revocation of the holder's certificate to practice; 48825

(3) Issuance of a written reprimand; 48826

(4) A refusal to renew or a limitation on the holder's 48827
certificate to practice. 48828

The board shall issue its final adjudication order not later 48829
than forty-five days after completion of an adjudication hearing. 48830
If the board does not issue a final order within that time period, 48831
the suspension order is void, but any final adjudication order 48832
subsequently issued is not affected. 48833

(F) Any action taken by the board under this section 48834
resulting in a suspension from practice shall be accompanied by a 48835
written statement of the conditions under which the certificate to 48836
practice may be reinstated. Reinstatement of a certificate 48837

suspended under this section requires an affirmative vote by the 48838
majority of the members of the board. 48839

(G) When the board revokes or refuses to reinstate a 48840
certificate to practice, the board may specify that its action is 48841
permanent. An individual subject to permanent action taken by the 48842
board is forever ineligible to hold a certificate of the type 48843
revoked or refused, and the board shall not accept from the 48844
individual an application for reinstatement of the certificate or 48845
for a new certificate. 48846

Sec. 4765.116. If a certificate holder subject to a 48847
suspension order issued by the state board of emergency medical, 48848
fire, and transportation services under section 4765.112 or an 48849
automatic suspension order under section 4765.114 of the Revised 48850
Code fails to make a timely request for a hearing, the following 48851
apply: 48852

(A) In the case of a certificate holder subject to a summary 48853
suspension order, the board is not required to hold a hearing, but 48854
may adopt, by an affirmative vote of a majority of its members, a 48855
final order that contains the board's findings. In the final 48856
order, the board may order any of the sanctions listed in division 48857
(E) of section 4765.115 of the Revised Code. 48858

(B) In the case of a certificate holder subject to an 48859
automatic suspension order, the board may adopt, by an affirmative 48860
vote of a majority of its members, a final order that permanently 48861
revokes the holder's certificate to practice. 48862

Sec. 4765.12. (A) Not later than two years after ~~the~~ 48863
~~effective date of this section~~ November 3, 2000, the state board 48864
of emergency medical and transportation services shall develop and 48865
distribute guidelines for the care of trauma victims by emergency 48866
medical service personnel and for the conduct of peer review and 48867

quality assurance programs by emergency medical service 48868
organizations. The guidelines shall be consistent with the state 48869
trauma triage protocols adopted in rules under sections 4765.11 48870
and 4765.40 of the Revised Code and shall place emphasis on the 48871
special needs of pediatric and geriatric trauma victims. In 48872
developing the guidelines, the board shall consult with entities 48873
with interests in trauma and emergency medical services and shall 48874
consider any relevant guidelines adopted by national 48875
organizations, including the American college of surgeons, 48876
American college of emergency physicians, and American academy of 48877
pediatrics. The board shall distribute the guidelines, and 48878
amendments to the guidelines, to each emergency medical service 48879
organization, regional director, regional physician advisory 48880
board, certified emergency medical service instructor, and person 48881
who regularly provides medical direction to emergency medical 48882
service personnel in this state. 48883

(B) Not later than three years after ~~the effective date of~~ 48884
~~this section~~ November 3, 2000, each emergency medical service 48885
organization in this state shall implement ongoing peer review and 48886
quality assurance programs designed to improve the availability 48887
and quality of the emergency medical services it provides. The 48888
form and content of the programs shall be determined by each 48889
emergency medical service organization. In implementing the 48890
programs, each emergency medical service organization shall 48891
consider how to improve its ability to provide effective trauma 48892
care, particularly for pediatric and geriatric trauma victims, and 48893
shall take into account the trauma care guidelines developed by 48894
the state board of emergency medical, fire, and transportation 48895
services under this section. 48896

Information generated solely for use in a peer review or 48897
quality assurance program conducted on behalf of an emergency 48898
medical service organization is not a public record under section 48899

149.43 of the Revised Code. Such information, and any discussion 48900
conducted in the course of a peer review or quality assurance 48901
program conducted on behalf of an emergency medical service 48902
organization, is not subject to discovery in a civil action and 48903
shall not be introduced into evidence in a civil action against 48904
the emergency medical service organization on whose behalf the 48905
information was generated or the discussion occurred. 48906

No emergency medical service organization on whose behalf a 48907
peer review or quality assurance program is conducted, and no 48908
person who conducts such a program, because of performing such 48909
functions, shall be liable in a civil action for betrayal of 48910
professional confidence or otherwise in the absence of willful or 48911
wanton misconduct. 48912

Sec. 4765.15. A person seeking to operate an emergency 48913
medical services training program shall submit a completed 48914
application for accreditation to the state board of emergency 48915
medical, fire, and transportation services on a form the board 48916
shall prescribe and furnish. The application shall be accompanied 48917
by the appropriate application fee established in rules adopted 48918
under section 4765.11 of the Revised Code. 48919

A person seeking to operate an emergency medical services 48920
continuing education program shall submit a completed application 48921
for approval to the board on a form the board shall prescribe and 48922
furnish. The application shall be accompanied by the appropriate 48923
application fee established in rules adopted under section 4765.11 48924
of the Revised Code. 48925

The board shall administer the accreditation and approval 48926
processes pursuant to rules adopted under section 4765.11 of the 48927
Revised Code. In administering these processes, the board may 48928
authorize other persons to evaluate applications for accreditation 48929
or approval and may accept the recommendations made by those 48930

persons. 48931

The board may cause an investigation to be made into the 48932
accuracy of the information submitted in any application for 48933
accreditation or approval. If an investigation indicates that 48934
false, misleading, or incomplete information has been submitted to 48935
the board in connection with any application for accreditation or 48936
approval, the board shall conduct a hearing on the matter in 48937
accordance with Chapter 119. of the Revised Code. 48938

Sec. 4765.16. (A) All courses offered through an emergency 48939
medical services training program or an emergency medical services 48940
continuing education program, other than ambulance driving, shall 48941
be developed under the direction of a physician who specializes in 48942
emergency medicine. Each course that deals with trauma care shall 48943
be developed in consultation with a physician who specializes in 48944
trauma surgery. Except as specified by the state board of 48945
emergency medical, fire, and transportation services pursuant to 48946
rules adopted under section 4765.11 of the Revised Code, each 48947
course offered through a training program or continuing education 48948
program shall be taught by a person who holds the appropriate 48949
certificate to teach issued under section 4765.23 of the Revised 48950
Code. 48951

(B) A training program for first responders shall meet the 48952
standards established in rules adopted by the board under section 48953
4765.11 of the Revised Code. The program shall include courses in 48954
both of the following areas for at least the number of hours 48955
established by the board's rules: 48956

(1) Emergency victim care; 48957

(2) Reading and interpreting a trauma victim's vital signs. 48958

(C) A training program for emergency medical 48959
technicians-basic shall meet the standards established in rules 48960

adopted by the board under section 4765.11 of the Revised Code. 48961

The program shall include courses in each of the following areas 48962

for at least the number of hours established by the board's rules: 48963

- (1) Emergency victim care; 48964
- (2) Reading and interpreting a trauma victim's vital signs; 48965
- (3) Triage protocols for adult and pediatric trauma victims; 48966
- (4) In-hospital training; 48967
- (5) Clinical training; 48968
- (6) Training as an ambulance driver. 48969

Each operator of a training program for emergency medical 48970

technicians-basic shall allow any pupil in the twelfth grade in a 48971

secondary school who is at least seventeen years old and who 48972

otherwise meets the requirements for admission into such a 48973

training program to be admitted to and complete the program and, 48974

as part of the training, to ride in an ambulance with emergency 48975

medical technicians-basic, emergency medical 48976

technicians-intermediate, and emergency medical 48977

technicians-paramedic. Each emergency medical service organization 48978

shall allow pupils participating in training programs to ride in 48979

an ambulance with emergency medical technicians-basic, advanced 48980

emergency medical technicians-intermediate, and emergency medical 48981

technicians-paramedic. 48982

(D) A training program for emergency medical 48983

technicians-intermediate shall meet the standards established in 48984

rules adopted by the board under section 4765.11 of the Revised 48985

Code. The program shall include, or require as a prerequisite, the 48986

training specified in division (C) of this section and courses in 48987

each of the following areas for at least the number of hours 48988

established by the board's rules: 48989

- (1) Recognizing symptoms of life-threatening allergic 48990

reactions and in calculating proper dosage levels and 48991
administering injections of epinephrine to persons who suffer 48992
life-threatening allergic reactions, conducted in accordance with 48993
rules adopted by the board under section 4765.11 of the Revised 48994
Code; 48995

(2) Venous access procedures; 48996

(3) Cardiac monitoring and electrical interventions to 48997
support or correct the cardiac function. 48998

(E) A training program for emergency medical 48999
technicians-paramedic shall meet the standards established in 49000
rules adopted by the board under section 4765.11 of the Revised 49001
Code. The program shall include, or require as a prerequisite, the 49002
training specified in divisions (C) and (D) of this section and 49003
courses in each of the following areas for at least the number of 49004
hours established by the board's rules: 49005

(1) Medical terminology; 49006

(2) Venous access procedures; 49007

(3) Airway procedures; 49008

(4) Patient assessment and triage; 49009

(5) Acute cardiac care, including administration of 49010
parenteral injections, electrical interventions, and other 49011
emergency medical services; 49012

(6) Emergency and trauma victim care beyond that required 49013
under division (C) of this section; 49014

(7) Clinical training beyond that required under division (C) 49015
of this section. 49016

(F) A continuing education program for first responders, 49017
EMTs-basic, EMTs-I, or paramedics shall meet the standards 49018
established in rules adopted by the board under section 4765.11 of 49019
the Revised Code. A continuing education program shall include 49020

instruction and training in subjects established by the board's 49021
rules for at least the number of hours established by the board's 49022
rules. 49023

Sec. 4765.17. (A) The state board of emergency medical, fire, 49024
and transportation services shall issue the appropriate 49025
certificate of accreditation or certificate of approval to an 49026
applicant who is of good reputation and meets the requirements of 49027
section 4765.16 of the Revised Code. The board shall grant or deny 49028
a certificate of accreditation or certificate of approval within 49029
one hundred twenty days of receipt of the application. The board 49030
may issue or renew a certificate of accreditation or certificate 49031
of approval on a provisional basis to an applicant who is of good 49032
reputation and is in substantial compliance with the requirements 49033
of section 4765.16 of the Revised Code. The board shall inform an 49034
applicant receiving such a certificate of the conditions that must 49035
be met to complete compliance with section 4765.16 of the Revised 49036
Code. 49037

(B) Except as provided in division (C) of this section, a 49038
certificate of accreditation or certificate of approval is valid 49039
for up to five years and may be renewed by the board pursuant to 49040
procedures and standards established in rules adopted under 49041
section 4765.11 of the Revised Code. An application for renewal 49042
shall be accompanied by the appropriate renewal fee established in 49043
rules adopted under section 4765.11 of the Revised Code. 49044

(C) A certificate of accreditation or certificate of approval 49045
issued on a provisional basis is valid for the length of time 49046
established by the board. If the board finds that the holder of 49047
such a certificate has met the conditions it specifies under 49048
division (A) of this section, the board shall issue the 49049
appropriate certificate of accreditation or certificate of 49050
approval. 49051

(D) A certificate of accreditation is valid only for the emergency medical services training program or programs for which it is issued. The holder of a certificate of accreditation may apply to operate additional training programs in accordance with rules adopted by the board under section 4765.11 of the Revised Code. Any additional training programs shall expire on the expiration date of the applicant's current certificate. A certificate of approval is valid only for the emergency medical services continuing education program for which it is issued. Neither is transferable.

(E) The holder of a certificate of accreditation or a certificate of approval may offer courses at more than one location in accordance with rules adopted under section 4765.11 of the Revised Code.

Sec. 4765.18. The state board of emergency medical, fire, and transportation services may suspend or revoke a certificate of accreditation or a certificate of approval issued under section 4765.17 of the Revised Code for any of the following reasons:

(A) Violation of this chapter or any rule adopted under it;

(B) Furnishing of false, misleading, or incomplete information to the board;

(C) The signing of an application or the holding of a certificate of accreditation by a person who has pleaded guilty to or has been convicted of a felony, or has pleaded guilty to or been convicted of a crime involving moral turpitude;

(D) The signing of an application or the holding of a certificate of accreditation by a person who is addicted to the use of any controlled substance or has been adjudicated incompetent for that purpose by a court, as provided in section 5122.301 of the Revised Code;

(E) Violation of any commitment made in an application for a certificate of accreditation or certificate of approval; 49082
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(F) Presentation to prospective students of misleading, false, or fraudulent information relating to the emergency medical services training program or emergency medical services continuing education program, employment opportunities, or opportunities for enrollment in accredited institutions of higher education after entering or completing courses offered by the operator of a program; 49084
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(G) Failure to maintain in a safe and sanitary condition premises and equipment used in conducting courses of study; 49091
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(H) Failure to maintain financial resources adequate for the satisfactory conduct of courses of study or to retain a sufficient number of certified instructors; 49093
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49095

(I) Discrimination in the acceptance of students upon the basis of race, color, religion, sex, or national origin. 49096
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Sec. 4765.22. A person seeking a certificate to teach in an emergency medical services training program or an emergency medical services continuing education program shall submit a completed application for certification to the state board of emergency medical, fire, and transportation services on a form the board shall prescribe and furnish. The application shall be accompanied by the appropriate application fee established in rules adopted under section 4765.11 of the Revised Code. 49098
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Sec. 4765.23. The state board of emergency medical, fire, and transportation services shall issue a certificate to teach in an emergency medical services training program or an emergency medical services continuing education program to any applicant who it determines meets the qualifications established in rules adopted under section 4765.11 of the Revised Code. The certificate 49106
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shall indicate each type of instruction and training the 49112
certificate holder may teach under the certificate. 49113

A certificate to teach shall have a certification cycle 49114
established by the board and may be renewed by the board pursuant 49115
to rules adopted under section 4765.11 of the Revised Code. An 49116
application for renewal shall be accompanied by the appropriate 49117
renewal fee established in rules adopted under section 4765.11 of 49118
the Revised Code. 49119

The board may suspend or revoke a certificate to teach 49120
pursuant to rules adopted under section 4765.11 of the Revised 49121
Code. 49122

Sec. 4765.28. A person seeking a certificate to practice as a 49123
first responder, emergency medical technician-basic, emergency 49124
medical technician-intermediate, or emergency medical 49125
technician-paramedic shall submit a completed application for 49126
certification to the state board of emergency medical, fire, and 49127
transportation services on a form the board shall prescribe and 49128
furnish. Except as provided in division (B) of section 4765.29 of 49129
the Revised Code, the application shall include evidence that the 49130
applicant received the appropriate certificate of completion 49131
pursuant to section 4765.24 of the Revised Code. The application 49132
shall be accompanied by the appropriate application fee 49133
established in rules adopted under section 4765.11 of the Revised 49134
Code, unless the board waives the fee on determining pursuant to 49135
those rules that the applicant cannot afford to pay the fee. 49136

Sec. 4765.29. (A) The state board of emergency medical, fire, 49137
and transportation services shall provide for the examination of 49138
applicants for certification to practice as first responders, 49139
emergency medical technicians-basic, emergency medical 49140
technicians-intermediate, and emergency medical 49141

technicians-paramedic. The examinations shall be established by 49142
the board in rules adopted under section 4765.11 of the Revised 49143
Code. The board may administer the examinations or contract with 49144
other persons to administer the examinations. In either case, the 49145
examinations shall be administered pursuant to procedures 49146
established in rules adopted under section 4765.11 of the Revised 49147
Code and shall be offered at various locations in the state 49148
selected by the board. 49149

Except as provided in division (B) of this section, an 49150
applicant shall not be permitted to take an examination for the 49151
same certificate to practice more than three times since last 49152
receiving the certificate of completion pursuant to section 49153
4765.24 of the Revised Code that qualifies the applicant to take 49154
the examination unless the applicant receives another certificate 49155
of completion that qualifies the applicant to take the 49156
examination. 49157

(B) On request of an applicant who fails three examinations 49158
for the same certificate to practice, the board may direct the 49159
applicant to complete a specific portion of an accredited 49160
emergency medical services training program. If the applicant 49161
provides satisfactory proof to the board that the applicant has 49162
successfully completed that portion of the program, the applicant 49163
shall be permitted to take the examination. 49164

Sec. 4765.30. (A)(1) The state board of emergency medical, 49165
fire, and transportation services shall issue a certificate to 49166
practice as a first responder to an applicant who meets all of the 49167
following conditions: 49168

(a) Except as provided in division (A)(2) of this section, is 49169
a volunteer for a nonprofit emergency medical service organization 49170
or a nonprofit fire department; 49171

(b) Holds the appropriate certificate of completion issued in 49172

accordance with section 4765.24 of the Revised Code;	49173
(c) Passes the appropriate examination conducted under	49174
section 4765.29 of the Revised Code;	49175
(d) Is not in violation of any provision of this chapter or	49176
the rules adopted under it;	49177
(e) Meets any other certification requirements established in	49178
rules adopted under section 4765.11 of the Revised Code.	49179
(2) The board may waive the requirement to be a volunteer for	49180
a nonprofit entity if the applicant meets other requirements	49181
established in rules adopted under division (B)(3) of section	49182
4765.11 of the Revised Code relative to a person's eligibility to	49183
practice as a first responder.	49184
(B) The state board of emergency medical, <u>fire, and</u>	49185
<u>transportation</u> services shall issue a certificate to practice as	49186
an emergency medical technician-basic to an applicant who meets	49187
all of the following conditions:	49188
(1) Holds a certificate of completion in emergency medical	49189
services training-basic issued in accordance with section 4765.24	49190
of the Revised Code;	49191
(2) Passes the examination for emergency medical	49192
technicians-basic conducted under section 4765.29 of the Revised	49193
Code;	49194
(3) Is not in violation of any provision of this chapter or	49195
the rules adopted under it;	49196
(4) Meets any other certification requirements established in	49197
rules adopted under section 4765.11 of the Revised Code.	49198
(C) The state board of emergency medical, <u>fire, and</u>	49199
<u>transportation</u> services shall issue a certificate to practice as	49200
an emergency medical technician-intermediate or emergency medical	49201
technician-paramedic to an applicant who meets all of the	49202

following conditions:	49203
(1) Holds a certificate to practice as an emergency medical technician-basic;	49204 49205
(2) Holds the appropriate certificate of completion issued in accordance with section 4765.24 of the Revised Code;	49206 49207
(3) Passes the appropriate examination conducted under section 4765.29 of the Revised Code;	49208 49209
(4) Is not in violation of any provision of this chapter or the rules adopted under it;	49210 49211
(5) Meets any other certification requirements established in rules adopted under section 4765.11 of the Revised Code.	49212 49213
(D) A certificate to practice shall have a certification cycle established by the board and may be renewed by the board pursuant to rules adopted under section 4765.11 of the Revised Code. Not later than sixty days prior to the expiration date of an individual's certificate to practice, the board shall notify the individual of the scheduled expiration.	49214 49215 49216 49217 49218 49219
An application for renewal shall be accompanied by the appropriate renewal fee established in rules adopted under section 4765.11 of the Revised Code, unless the board waives the fee on determining pursuant to those rules that the applicant cannot afford to pay the fee. Except as provided in division (B) of section 4765.31 of the Revised Code, the application shall include evidence of either of the following:	49220 49221 49222 49223 49224 49225 49226
(1) That the applicant received a certificate of completion from the appropriate emergency medical services continuing education program pursuant to section 4765.24 of the Revised Code;	49227 49228 49229
(2) That the applicant has successfully passed an examination that demonstrates the competence to have a certificate renewed without completing an emergency medical services continuing	49230 49231 49232

education program. The board shall approve such examinations in 49233
accordance with rules adopted under section 4765.11 of the Revised 49234
Code. 49235

(E) The board shall not require an applicant for renewal of a 49236
certificate to practice to take an examination as a condition of 49237
renewing the certificate. This division does not preclude the use 49238
of examinations by operators of approved emergency medical 49239
services continuing education programs as a condition for issuance 49240
of a certificate of completion in emergency medical services 49241
continuing education. 49242

Sec. 4765.31. (A) Except as provided in division (B) of this 49243
section, a first responder, emergency medical technician-basic, 49244
emergency medical technician-intermediate, and emergency medical 49245
technician-paramedic shall complete an emergency medical services 49246
continuing education program or pass an examination approved by 49247
the state board of emergency medical, fire, and transportation 49248
services under division (A) of section 4765.10 of the Revised Code 49249
prior to the expiration of the individual's certificate to 49250
practice. Completion of the continuing education requirements for 49251
EMTs-I or paramedics satisfies the continuing education 49252
requirements for renewing the certificate to practice as an 49253
EMT-basic held by an EMT-I or paramedic. 49254

(B)(1) An applicant for renewal of a certificate to practice 49255
may apply to the board, in writing, for an extension to complete 49256
the continuing education requirements established under division 49257
(A) of this section. The board may grant such an extension and 49258
determine the length of the extension. The board may authorize the 49259
applicant to continue to practice during the extension as if the 49260
certificate to practice had not expired. 49261

(2) An applicant for renewal of a certificate to practice may 49262
apply to the board, in writing, for an exemption from the 49263

continuing education requirements established under division (A) 49264
of this section. The board may exempt an individual or a group of 49265
individuals from all or any part of the continuing education 49266
requirements due to active military service, unusual circumstance, 49267
emergency, special hardship, or any other cause considered 49268
reasonable by the board. 49269

(C) Decisions of whether to grant an extension or exemption 49270
under division (B) of this section shall be made by the board 49271
pursuant to procedures established in rules adopted under section 49272
4765.11 of the Revised Code. 49273

Sec. 4765.32. A current, valid certificate of accreditation 49274
issued under the provisions of former section 3303.11 or 3303.23 49275
of the Revised Code shall remain valid until one year after the 49276
expiration date of the certificate as determined by the provisions 49277
of those sections and shall confer the same privileges and impose 49278
the same responsibilities and requirements as a certificate of 49279
accreditation issued by the state board of emergency medical, 49280
fire, and transportation services under section 4765.17 of the 49281
Revised Code. 49282

A certificate to practice as an emergency medical 49283
technician-ambulance that is valid on November 24, 1995, shall be 49284
considered a certificate to practice as an emergency medical 49285
technician-basic. A certificate to practice as an advanced 49286
emergency medical technician-ambulance that is valid on November 49287
24, 1995, shall be considered a certificate to practice as an 49288
emergency medical technician-intermediate. 49289

Sec. 4765.33. The state board of emergency medical, fire, and 49290
transportation services may suspend or revoke certificates to 49291
practice issued under section 4765.30 of the Revised Code, and may 49292
take other disciplinary action against first responders, emergency 49293

medical technicians-basic, emergency medical 49294
technicians-intermediate, and emergency medical 49295
technicians-paramedic pursuant to rules adopted under section 49296
4765.11 of the Revised Code. 49297

Sec. 4765.37. (A) An emergency medical technician-basic shall 49298
perform the emergency medical services described in this section 49299
in accordance with this chapter and any rules adopted under it by 49300
the state board of emergency medical, fire, and transportation 49301
services. 49302

(B) An emergency medical technician-basic may operate, or be 49303
responsible for operation of, an ambulance and may provide 49304
emergency medical services to patients. In an emergency, an 49305
EMT-basic may determine the nature and extent of illness or injury 49306
and establish priority for required emergency medical services. An 49307
EMT-basic may render emergency medical services such as opening 49308
and maintaining an airway, giving positive pressure ventilation, 49309
cardiac resuscitation, electrical interventions with automated 49310
defibrillators to support or correct the cardiac function and 49311
other methods determined by the board, controlling of hemorrhage, 49312
treatment of shock, immobilization of fractures, bandaging, 49313
assisting in childbirth, management of mentally disturbed 49314
patients, initial care of poison and burn patients, and 49315
determining triage of adult and pediatric trauma victims. Where 49316
patients must in an emergency be extricated from entrapment, an 49317
EMT-basic may assess the extent of injury and render all possible 49318
emergency medical services and protection to the entrapped 49319
patient; provide light rescue services if an ambulance has not 49320
been accompanied by a specialized unit; and after extrication, 49321
provide additional care in sorting of the injured in accordance 49322
with standard emergency procedures. 49323

(C) An EMT-basic may perform any other emergency medical 49324

services approved pursuant to rules adopted under section 4765.11 49325
of the Revised Code. The board shall determine whether the nature 49326
of any such service requires that an EMT-basic receive 49327
authorization prior to performing the service. 49328

(D)(1) Except as provided in division (D)(2) of this section, 49329
if the board determines under division (C) of this section that a 49330
service requires prior authorization, the service shall be 49331
performed only pursuant to the written or verbal authorization of 49332
a physician or of the cooperating physician advisory board, or 49333
pursuant to an authorization transmitted through a direct 49334
communication device by a physician or registered nurse designated 49335
by a physician. 49336

(2) If communications fail during an emergency situation or 49337
the required response time prohibits communication, an EMT-basic 49338
may perform services subject to this division, if, in the judgment 49339
of the EMT-basic, the life of the patient is in immediate danger. 49340
Services performed under these circumstances shall be performed in 49341
accordance with the protocols for triage of adult and pediatric 49342
trauma victims established in rules adopted under sections 4765.11 49343
and 4765.40 of the Revised Code and any applicable protocols 49344
adopted by the emergency medical service organization with which 49345
the EMT-basic is affiliated. 49346

Sec. 4765.38. (A) An emergency medical 49347
technician-intermediate shall perform the emergency medical 49348
services described in this section in accordance with this chapter 49349
and any rules adopted under it. 49350

(B) An EMT-I may do any of the following: 49351

(1) Establish and maintain an intravenous lifeline that has 49352
been approved by a cooperating physician or physician advisory 49353
board; 49354

(2) Perform cardiac monitoring;	49355
(3) Perform electrical interventions to support or correct the cardiac function;	49356 49357
(4) Administer epinephrine;	49358
(5) Determine triage of adult and pediatric trauma victims;	49359
(6) Perform any other emergency medical services approved pursuant to rules adopted under section 4765.11 of the Revised Code.	49360 49361 49362
(C)(1) Except as provided in division (C)(2) of this section, the services described in division (B) of this section shall be performed by an EMT-I only pursuant to the written or verbal authorization of a physician or of the cooperating physician advisory board, or pursuant to an authorization transmitted through a direct communication device by a physician or registered nurse designated by a physician.	49363 49364 49365 49366 49367 49368 49369
(2) If communications fail during an emergency situation or the required response time prohibits communication, an EMT-I may perform any of the services described in division (B) of this section, if, in the judgment of the EMT-I, the life of the patient is in immediate danger. Services performed under these circumstances shall be performed in accordance with the protocols for triage of adult and pediatric trauma victims established in rules adopted under sections 4765.11 and 4765.40 of the Revised Code and any applicable protocols adopted by the emergency medical service organization with which the EMT-I is affiliated.	49370 49371 49372 49373 49374 49375 49376 49377 49378 49379
(D) In addition to, and in the course of, providing emergency medical treatment, an emergency medical technician-intermediate may withdraw blood as provided under sections 1547.11, 4506.17, and 4511.19 of the Revised Code. An emergency medical technician-intermediate shall withdraw blood in accordance with this chapter and any rules adopted under it by the state board of	49380 49381 49382 49383 49384 49385

emergency medical and transportation services. 49386

Sec. 4765.39. (A) An emergency medical technician-paramedic 49387
shall perform the emergency medical services described in this 49388
section in accordance with this chapter and any rules adopted 49389
under it. 49390

(B) A paramedic may do any of the following: 49391

(1) Perform cardiac monitoring; 49392

(2) Perform electrical interventions to support or correct 49393
the cardiac function; 49394

(3) Perform airway procedures; 49395

(4) Perform relief of pneumothorax; 49396

(5) Administer appropriate drugs and intravenous fluids; 49397

(6) Determine triage of adult and pediatric trauma victims; 49398

(7) Perform any other emergency medical services, including 49399
life support or intensive care techniques, approved pursuant to 49400
rules adopted under section 4765.11 of the Revised Code. 49401

(C)(1) Except as provided in division (C)(2) of this section, 49402
the services described in division (B) of this section shall be 49403
performed by a paramedic only pursuant to the written or verbal 49404
authorization of a physician or of the cooperating physician 49405
advisory board, or pursuant to an authorization transmitted 49406
through a direct communication device by a physician or registered 49407
nurse designated by a physician. 49408

(2) If communications fail during an emergency situation or 49409
the required response time prohibits communication, a paramedic 49410
may perform any of the services described in division (B) of this 49411
section, if, in the paramedic's judgment, the life of the patient 49412
is in immediate danger. Services performed under these 49413
circumstances shall be performed in accordance with the protocols 49414

for triage of adult and pediatric trauma victims established in 49415
rules adopted under sections 4765.11 and 4765.40 of the Revised 49416
Code and any applicable protocols adopted by the emergency medical 49417
service organization with which the paramedic is affiliated. 49418

(D) In addition to, and in the course of, providing emergency 49419
medical treatment, an emergency medical technician-paramedic may 49420
withdraw blood as provided under sections 1547.11, 4506.17, and 49421
4511.19 of the Revised Code. An emergency medical 49422
technician-paramedic shall withdraw blood in accordance with this 49423
chapter and any rules adopted under it by the state board of 49424
emergency medical, fire, and transportation services. 49425

Sec. 4765.40. (A)(1) Not later than two years after ~~the~~ 49426
~~effective date of this amendment~~ November 3, 2000, the state board 49427
of emergency medical, fire, and transportation services shall 49428
adopt rules under section 4765.11 of the Revised Code establishing 49429
written protocols for the triage of adult and pediatric trauma 49430
victims. The rules shall define adult and pediatric trauma in a 49431
manner that is consistent with section 4765.01 of the Revised 49432
Code, minimizes overtriage and undertriage, and emphasizes the 49433
special needs of pediatric and geriatric trauma patients. 49434

(2) The state triage protocols adopted under division (A) of 49435
this section shall require a trauma victim to be transported 49436
directly to an adult or pediatric trauma center that is qualified 49437
to provide appropriate adult or pediatric trauma care, unless one 49438
or more of the following exceptions applies: 49439

(a) It is medically necessary to transport the victim to 49440
another hospital for initial assessment and stabilization before 49441
transfer to an adult or pediatric trauma center; 49442

(b) It is unsafe or medically inappropriate to transport the 49443
victim directly to an adult or pediatric trauma center due to 49444
adverse weather or ground conditions or excessive transport time; 49445

(c) Transporting the victim to an adult or pediatric trauma center would cause a shortage of local emergency medical service resources; 49446
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(d) No appropriate adult or pediatric trauma center is able to receive and provide adult or pediatric trauma care to the trauma victim without undue delay; 49449
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(e) Before transport of a patient begins, the patient requests to be taken to a particular hospital that is not a trauma center or, if the patient is less than eighteen years of age or is not able to communicate, such a request is made by an adult member of the patient's family or a legal representative of the patient. 49452
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(3)(a) The state triage protocols adopted under division (A) of this section shall require trauma patients to be transported to an adult or pediatric trauma center that is able to provide appropriate adult or pediatric trauma care, but shall not require a trauma patient to be transported to a particular trauma center. The state triage protocols shall establish one or more procedures for evaluating whether an injury victim requires or would benefit from adult or pediatric trauma care, which procedures shall be applied by emergency medical service personnel based on the patient's medical needs. In developing state trauma triage protocols, the board shall consider relevant model triage rules and shall consult with the commission on minority health, regional directors, regional physician advisory boards, and appropriate medical, hospital, and emergency medical service organizations. 49457
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(b) Before the joint committee on agency rule review considers state triage protocols for trauma victims proposed by the state board of emergency medical, fire, and transportation services, or amendments thereto, the board shall send a copy of the proposal to the Ohio chapter of the American college of emergency physicians, the Ohio chapter of the American college of surgeons, the Ohio chapter of the American academy of pediatrics, 49471
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OHA: the association for hospitals and health systems, the Ohio 49478
osteopathic association, and the association of Ohio children's 49479
hospitals and shall hold a public hearing at which it must 49480
consider the appropriateness of the protocols to minimize 49481
overtriage and undertriage of trauma victims. 49482

(c) The board shall provide copies of the state triage 49483
protocols, and amendments to the protocols, to each emergency 49484
medical service organization, regional director, regional 49485
physician advisory board, certified emergency medical service 49486
instructor, and person who regularly provides medical direction to 49487
emergency medical service personnel in the state; to each medical 49488
service organization in other jurisdictions that regularly provide 49489
emergency medical services in this state; and to others upon 49490
request. 49491

(B)(1) The state board of emergency medical, fire, and 49492
transportation services shall approve regional protocols for the 49493
triage of adult and pediatric trauma victims, and amendments to 49494
such protocols, that are submitted to the board as provided in 49495
division (B)(2) of this section and provide a level of adult and 49496
pediatric trauma care comparable to the state triage protocols 49497
adopted under division (A) of this section. The board shall not 49498
otherwise approve regional triage protocols for trauma victims. 49499
The board shall not approve regional triage protocols for regions 49500
that overlap and shall resolve any such disputes by apportioning 49501
the overlapping territory among appropriate regions in a manner 49502
that best serves the medical needs of the residents of that 49503
territory. The trauma committee of the board shall have reasonable 49504
opportunity to review and comment on regional triage protocols and 49505
amendments to such protocols before the board approves or 49506
disapproves them. 49507

(2) Regional protocols for the triage of adult and pediatric 49508
trauma victims, and amendments to such protocols, shall be 49509

submitted in writing to the state board of emergency medical, 49510
fire, and transportation services by the regional physician 49511
advisory board or regional director, as appropriate, that serves a 49512
majority of the population in the region in which the protocols 49513
apply. Prior to submitting regional triage protocols, or an 49514
amendment to such protocols, to the state board of emergency 49515
medical, fire, and transportation services, a regional physician 49516
advisory board or regional director shall consult with each of the 49517
following that regularly serves the region in which the protocols 49518
apply: 49519

(a) Other regional physician advisory boards and regional 49520
directors; 49521

(b) Hospitals that operate an emergency facility; 49522

(c) Adult and pediatric trauma centers; 49523

(d) Professional societies of physicians who specialize in 49524
adult or pediatric emergency medicine or adult or pediatric trauma 49525
surgery; 49526

(e) Professional societies of nurses who specialize in adult 49527
or pediatric emergency nursing or adult or pediatric trauma 49528
surgery; 49529

(f) Professional associations or labor organizations of 49530
emergency medical service personnel; 49531

(g) Emergency medical service organizations and medical 49532
directors of such organizations; 49533

(h) Certified emergency medical service instructors. 49534

(3) Regional protocols for the triage of adult and pediatric 49535
trauma victims approved under division (B)(2) of this section 49536
shall require patients to be transported to a trauma center that 49537
is able to provide an appropriate level of adult or pediatric 49538
trauma care; shall not discriminate among trauma centers for 49539

reasons not related to a patient's medical needs; shall seek to 49540
minimize undertriage and overtriage; may include any of the 49541
exceptions in division (A)(2) of this section; and supersede the 49542
state triage protocols adopted under division (A) of this section 49543
in the region in which the regional protocols apply. 49544

(4) Upon approval of regional protocols for the triage of 49545
adult and pediatric trauma victims under division (B)(2) of this 49546
section, or an amendment to such protocols, the state board of 49547
emergency medical, fire, and transportation services shall provide 49548
written notice of the approval and a copy of the protocols or 49549
amendment to each entity in the region in which the protocols 49550
apply to which the board is required to send a copy of the state 49551
triage protocols adopted under division (A) of this section. 49552

(C)(1) The state board of emergency medical, fire, and 49553
transportation services shall review the state triage protocols 49554
adopted under division (A) of this section at least every three 49555
years to determine if they are causing overtriage or undertriage 49556
of trauma patients, and shall modify them as necessary to minimize 49557
overtriage and undertriage. 49558

(2) Each regional physician advisory board or regional 49559
director that has had regional triage protocols approved under 49560
division (B)(2) of this section shall review the protocols at 49561
least every three years to determine if they are causing 49562
overtriage or undertriage of trauma patients and shall submit an 49563
appropriate amendment to the state board, as provided in division 49564
(B) of this section, as necessary to minimize overtriage and 49565
undertriage. The state board shall approve the amendment if it 49566
will reduce overtriage or undertriage while complying with 49567
division (B) of this section, and shall not otherwise approve the 49568
amendment. 49569

(D) No provider of emergency medical services or person who 49570
provides medical direction to emergency medical service personnel 49571

in this state shall fail to comply with the state triage protocols 49572
adopted under division (A) of this section or applicable regional 49573
triage protocols approved under division (B)(2) of this section. 49574

(E) The state board of emergency medical, fire, and 49575
transportation services shall adopt rules under section 4765.11 of 49576
the Revised Code that provide for enforcement of the state triage 49577
protocols adopted under division (A) of this section and regional 49578
triage protocols approved under division (B)(2) of this section, 49579
and for education regarding those protocols for emergency medical 49580
service organizations and personnel, regional directors and 49581
regional physician advisory boards, emergency medical service 49582
instructors, and persons who regularly provide medical direction 49583
to emergency medical service personnel in this state. 49584

Sec. 4765.42. Each emergency medical service organization 49585
shall give notice of the name of its medical director or the names 49586
of the members of its cooperating physician advisory board to the 49587
state board of emergency medical, fire, and transportation 49588
services. The notice shall be made in writing. 49589

Sec. 4765.48. The attorney general, the prosecuting attorney 49590
of the county, or the city director of law shall, upon complaint 49591
of the state board of emergency medical, fire, and transportation 49592
services, prosecute to termination or bring an action for 49593
injunction against any person violating this chapter or the rules 49594
adopted under it. The common pleas court in which an action for 49595
injunction is filed has the jurisdiction to grant injunctive 49596
relief upon a showing that the respondent named in the complaint 49597
is in violation of this chapter or the rules adopted under it. 49598

Sec. 4765.49. (A) A first responder, emergency medical 49599
technician-basic, emergency medical technician-intermediate, or 49600
emergency medical technician-paramedic is not liable in damages in 49601

a civil action for injury, death, or loss to person or property 49602
resulting from the individual's administration of emergency 49603
medical services, unless the services are administered in a manner 49604
that constitutes willful or wanton misconduct. A physician or 49605
registered nurse designated by a physician, who is advising or 49606
assisting in the emergency medical services by means of any 49607
communication device or telemetering system, is not liable in 49608
damages in a civil action for injury, death, or loss to person or 49609
property resulting from the individual's advisory communication or 49610
assistance, unless the advisory communication or assistance is 49611
provided in a manner that constitutes willful or wanton 49612
misconduct. Medical directors and members of cooperating physician 49613
advisory boards of emergency medical service organizations are not 49614
liable in damages in a civil action for injury, death, or loss to 49615
person or property resulting from their acts or omissions in the 49616
performance of their duties, unless the act or omission 49617
constitutes willful or wanton misconduct. 49618

(B) A political subdivision, joint ambulance district, joint 49619
emergency medical services district, or other public agency, and 49620
any officer or employee of a public agency or of a private 49621
organization operating under contract or in joint agreement with 49622
one or more political subdivisions, that provides emergency 49623
medical services, or that enters into a joint agreement or a 49624
contract with the state, any political subdivision, joint 49625
ambulance district, or joint emergency medical services district 49626
for the provision of emergency medical services, is not liable in 49627
damages in a civil action for injury, death, or loss to person or 49628
property arising out of any actions taken by a first responder, 49629
EMT-basic, EMT-I, or paramedic working under the officer's or 49630
employee's jurisdiction, or for injury, death, or loss to person 49631
or property arising out of any actions of licensed medical 49632
personnel advising or assisting the first responder, EMT-basic, 49633
EMT-I, or paramedic, unless the services are provided in a manner 49634

that constitutes willful or wanton misconduct. 49635

(C) A student who is enrolled in an emergency medical 49636
services training program accredited under section 4765.17 of the 49637
Revised Code or an emergency medical services continuing education 49638
program approved under that section is not liable in damages in a 49639
civil action for injury, death, or loss to person or property 49640
resulting from either of the following: 49641

(1) The student's administration of emergency medical 49642
services or patient care or treatment, if the services, care, or 49643
treatment is administered while the student is under the direct 49644
supervision and in the immediate presence of an EMT-basic, EMT-I, 49645
paramedic, registered nurse, or physician and while the student is 49646
receiving clinical training that is required by the program, 49647
unless the services, care, or treatment is provided in a manner 49648
that constitutes willful or wanton misconduct; 49649

(2) The student's training as an ambulance driver, unless the 49650
driving is done in a manner that constitutes willful or wanton 49651
misconduct. 49652

(D) An EMT-basic, EMT-I, paramedic, or other operator, who 49653
holds a valid commercial driver's license issued pursuant to 49654
Chapter 4506. of the Revised Code or driver's license issued 49655
pursuant to Chapter 4507. of the Revised Code and who is employed 49656
by an emergency medical service organization that is not owned or 49657
operated by a political subdivision as defined in section 2744.01 49658
of the Revised Code, is not liable in damages in a civil action 49659
for injury, death, or loss to person or property that is caused by 49660
the operation of an ambulance by the EMT-basic, EMT-I, paramedic, 49661
or other operator while responding to or completing a call for 49662
emergency medical services, unless the operation constitutes 49663
willful or wanton misconduct or does not comply with the 49664
precautions of section 4511.03 of the Revised Code. An emergency 49665
medical service organization is not liable in damages in a civil 49666

action for any injury, death, or loss to person or property that 49667
is caused by the operation of an ambulance by its employee or 49668
agent, if this division grants the employee or agent immunity from 49669
civil liability for the injury, death, or loss. 49670

(E) An employee or agent of an emergency medical service 49671
organization who receives requests for emergency medical services 49672
that are directed to the organization, dispatches first 49673
responders, EMTs-basic, EMTs-I, or paramedics in response to those 49674
requests, communicates those requests to those employees or agents 49675
of the organization who are authorized to dispatch first 49676
responders, EMTs-basic, EMTs-I, or paramedics, or performs any 49677
combination of these functions for the organization, is not liable 49678
in damages in a civil action for injury, death, or loss to person 49679
or property resulting from the individual's acts or omissions in 49680
the performance of those duties for the organization, unless an 49681
act or omission constitutes willful or wanton misconduct. 49682

(F) A person who is performing the functions of a first 49683
responder, EMT-basic, EMT-I, or paramedic under the authority of 49684
the laws of a state that borders this state and who provides 49685
emergency medical services to or transportation of a patient in 49686
this state is not liable in damages in a civil action for injury, 49687
death, or loss to person or property resulting from the person's 49688
administration of emergency medical services, unless the services 49689
are administered in a manner that constitutes willful or wanton 49690
misconduct. A physician or registered nurse designated by a 49691
physician, who is licensed to practice in the adjoining state and 49692
who is advising or assisting in the emergency medical services by 49693
means of any communication device or telemetering system is not 49694
liable in damages in a civil action for injury, death, or loss to 49695
person or property resulting from the person's advisory 49696
communication or assistance, unless the advisory communication or 49697
assistance is provided in a manner that constitutes willful or 49698

wanton misconduct. 49699

(G) A person certified under section 4765.23 of the Revised Code to teach in an emergency medical services training program or emergency medical services continuing education program, and a person who teaches at the Ohio fire academy established under section 3737.33 of the Revised Code or in a fire service training program described in division (A) of section 4765.55 of the Revised Code, is not liable in damages in a civil action for injury, death, or loss to person or property resulting from the person's acts or omissions in the performance of the person's duties, unless an act or omission constitutes willful or wanton misconduct. 49700
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(H) In the accreditation of emergency medical services training programs or approval of emergency medical services continuing education programs, the state board of emergency medical, fire, and transportation services and any person or entity authorized by the board to evaluate applications for accreditation or approval are not liable in damages in a civil action for injury, death, or loss to person or property resulting from their acts or omissions in the performance of their duties, unless an act or omission constitutes willful or wanton misconduct. 49711
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(I) A person authorized by an emergency medical service organization to review the performance of first responders, EMTs-basic, EMTs-I, and paramedics or to administer quality assurance programs is not liable in damages in a civil action for injury, death, or loss to person or property resulting from the person's acts or omissions in the performance of the person's duties, unless an act or omission constitutes willful or wanton misconduct. 49721
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Sec. 4765.55. (A) The executive director of the state board 49729

of emergency medical, fire, and transportation services, with the 49730
advice and counsel of the firefighter and fire safety inspector 49731
training committee of the state board of emergency medical, fire, 49732
and transportation services, shall assist in the establishment and 49733
maintenance by any state agency, or any county, township, city, 49734
village, school district, or educational service center of a fire 49735
service training program for the training of all persons in 49736
positions of any fire training certification level approved by the 49737
executive director, including full-time paid firefighters, 49738
part-time paid firefighters, volunteer firefighters, and fire 49739
safety inspectors in this state. The executive director, with the 49740
advice and counsel of the committee, shall adopt rules to regulate 49741
those firefighter and fire safety inspector training programs, and 49742
other training programs approved by the executive director. The 49743
rules may include, but need not be limited to, training 49744
curriculum, certification examinations, training schedules, 49745
minimum hours of instruction, attendance requirements, required 49746
equipment and facilities, basic physical requirements, and methods 49747
of training for all persons in positions of any fire training 49748
certification level approved by the executive director, including 49749
full-time paid firefighters, part-time paid firefighters, 49750
volunteer firefighters, and fire safety inspectors. The rules 49751
adopted to regulate training programs for volunteer firefighters 49752
shall not require more than thirty-six hours of training. 49753

The executive director, with the advice and counsel of the 49754
committee, shall provide for the classification and chartering of 49755
fire service training programs in accordance with rules adopted 49756
under division (B) of this section, and may take action against 49757
any chartered training program or applicant, in accordance with 49758
rules adopted under divisions (B)(4) and (5) of this section, for 49759
failure to meet standards set by the adopted rules. 49760

(B) The executive director, with the advice and counsel of 49761

the firefighter and fire safety inspector training committee of 49762
the state board of emergency medical, fire, and transportation 49763
services, shall adopt, and may amend or rescind, rules under 49764
Chapter 119. of the Revised Code that establish all of the 49765
following: 49766

(1) Requirements for, and procedures for chartering, the 49767
training programs regulated by this section; 49768

(2) Requirements for, and requirements and procedures for 49769
obtaining and renewing, an instructor certificate to teach the 49770
training programs and continuing education classes regulated by 49771
this section; 49772

(3) Requirements for, and requirements and procedures for 49773
obtaining and renewing, any of the fire training certificates 49774
regulated by this section; 49775

(4) Grounds and procedures for suspending, revoking, 49776
restricting, or refusing to issue or renew any of the certificates 49777
or charters regulated by this section, which grounds shall be 49778
limited to one of the following: 49779

(a) Failure to satisfy the education or training requirements 49780
of this section; 49781

(b) Conviction of a felony offense; 49782

(c) Conviction of a misdemeanor involving moral turpitude; 49783

(d) Conviction of a misdemeanor committed in the course of 49784
practice; 49785

(e) In the case of a chartered training program or applicant, 49786
failure to meet standards set by the rules adopted under this 49787
division. 49788

(5) Grounds and procedures for imposing and collecting fines, 49789
not to exceed one thousand dollars, in relation to actions taken 49790
under division (B)(4) of this section against persons holding 49791

certificates and charters regulated by this section, the fines to 49792
be deposited into the trauma and emergency medical services fund 49793
established under section 4513.263 of the Revised Code; 49794

(6) Continuing education requirements for certificate 49795
holders, including a requirement that credit shall be granted for 49796
in-service training programs conducted by local entities; 49797

(7) Procedures for considering the granting of an extension 49798
or exemption of fire service continuing education requirements; 49799

(8) Certification cycles for which the certificates and 49800
charters regulated by this section are valid. 49801

(C) The executive director, with the advice and counsel of 49802
the firefighter and fire safety inspector training committee of 49803
the state board of emergency medical, fire, and transportation 49804
services, shall issue or renew an instructor certificate to teach 49805
the training programs and continuing education classes regulated 49806
by this section to any applicant that the executive director 49807
determines meets the qualifications established in rules adopted 49808
under division (B) of this section, and may take disciplinary 49809
action against an instructor certificate holder or applicant in 49810
accordance with rules adopted under division (B) of this section. 49811
The executive director, with the advice and counsel of the 49812
committee, shall charter or renew the charter of any training 49813
program that the executive director determines meets the 49814
qualifications established in rules adopted under division (B) of 49815
this section, and may take disciplinary action against the holder 49816
of a charter in accordance with rules adopted under division (B) 49817
of this section. 49818

(D) The executive director shall issue or renew a fire 49819
training certificate for a firefighter, a fire safety inspector, 49820
or another position of any fire training certification level 49821
approved by the executive director, to any applicant that the 49822

executive director determines meets the qualifications established 49823
in rules adopted under division (B) of this section and may take 49824
disciplinary actions against a certificate holder or applicant in 49825
accordance with rules adopted under division (B) of this section. 49826

(E) Certificates issued under this section shall be on a form 49827
prescribed by the executive director, with the advice and counsel 49828
of the firefighter and fire safety inspector training committee of 49829
the state board of emergency medical, fire, and transportation 49830
services. 49831

(F)(1) The executive director, with the advice and counsel of 49832
the firefighter and fire safety inspector training committee of 49833
the state board of emergency medical, fire, and transportation 49834
services, shall establish criteria for evaluating the standards 49835
maintained by other states and the branches of the United States 49836
military for firefighter, fire safety inspector, and fire 49837
instructor training programs, and other training programs 49838
recognized by the executive director, to determine whether the 49839
standards are equivalent to those established under this section 49840
and shall establish requirements and procedures for issuing a 49841
certificate to each person who presents proof to the executive 49842
director of having satisfactorily completed a training program 49843
that meets those standards. 49844

(2) The executive director, with the committee's advice and 49845
counsel, shall adopt rules establishing requirements and 49846
procedures for issuing a fire training certificate in lieu of 49847
completing a chartered training program. 49848

(G) Nothing in this section invalidates any other section of 49849
the Revised Code relating to the fire training academy. Section 49850
4765.11 of the Revised Code does not affect any powers and duties 49851
granted to the executive director under this section. 49852

Sec. 4765.56. On receipt of a notice pursuant to section 49853

3123.43 of the Revised Code, the state board of emergency medical, 49854
fire, and transportation services shall comply with sections 49855
3123.41 to 3123.50 of the Revised Code and any applicable rules 49856
adopted under section 3123.63 of the Revised Code with respect to 49857
a certificate to practice issued pursuant to this chapter. 49858

Sec. 4766.01. As used in this chapter: 49859

(A) "Advanced life support" means treatment described in 49860
section 4765.39 of the Revised Code that a paramedic is certified 49861
to perform. 49862

(B) "Air medical service organization" means an organization 49863
that furnishes, conducts, maintains, advertises, promotes, or 49864
otherwise engages in providing medical services with a rotorcraft 49865
air ambulance or fixed wing air ambulance. 49866

(C) "Air medical transportation" means the transporting of a 49867
patient by rotorcraft air ambulance or fixed wing air ambulance 49868
with appropriately licensed and certified medical personnel. 49869

(D) "Ambulance" means any motor vehicle that is specifically 49870
designed, constructed, or modified and equipped and is intended to 49871
be used to provide basic life support, intermediate life support, 49872
advanced life support, or mobile intensive care unit services and 49873
transportation upon the streets or highways of this state of 49874
persons who are seriously ill, injured, wounded, or otherwise 49875
incapacitated or helpless. "Ambulance" does not include air 49876
medical transportation or a vehicle designed and used solely for 49877
the transportation of nonstretcher-bound persons, whether 49878
hospitalized or handicapped or whether ambulatory or confined to a 49879
wheelchair. 49880

(E) "Ambulette" means a motor vehicle that is specifically 49881
designed, constructed, or modified and equipped and is intended to 49882
be used for transportation upon the streets or highways of this 49883

state of persons who require use of a wheelchair. 49884

(F) "Basic life support" means treatment described in section 49885
4765.37 of the Revised Code that an ~~EMT basic~~ EMT is certified to 49886
perform. 49887

(G) "Disaster situation" means any condition or situation 49888
described by rule of the ~~Ohio~~ state board of emergency medical, 49889
fire, and transportation board services as a mass casualty, major 49890
emergency, natural disaster, or national emergency. 49891

(H) "Emergency medical service organization" means an 49892
organization that uses ~~EMTs basic~~ EMTs, ~~EMTs-I~~ advanced EMTs, or 49893
paramedics, or a combination of ~~EMTs basic~~ EMTs, ~~EMTs-I~~ advanced 49894
EMTs, and paramedics, to provide medical care to victims of 49895
illness or injury. An emergency medical service organization 49896
includes, but is not limited to, a commercial ambulance service 49897
organization, a hospital, and a funeral home. 49898

(I) "~~EMT basic~~ EMT," "~~EMT-I~~ advanced EMT," and "paramedic" 49899
have the same meanings as in section 4765.01 of the Revised Code. 49900

(J) "Fixed wing air ambulance" means a fixed wing aircraft 49901
that is specifically designed, constructed, or modified and 49902
equipped and is intended to be used as a means of air medical 49903
transportation. 49904

(K) "Intermediate life support" means treatment described in 49905
section 4765.38 of the Revised Code that an ~~EMT-I~~ advanced EMT is 49906
certified to perform. 49907

(L) "Major emergency" means any emergency event that cannot 49908
be resolved through the use of locally available emergency 49909
resources. 49910

(M) "Mass casualty" means an emergency event that results in 49911
ten or more persons being injured, incapacitated, made ill, or 49912
killed. 49913

(N) "Medical emergency" means an unforeseen event affecting an individual in such a manner that a need for immediate care is created.

(O) "Mobile intensive care unit" means an ambulance used only for maintaining specialized or intensive care treatment and used primarily for interhospital transports of patients whose conditions require care beyond the scope of a paramedic as provided in section 4765.39 of the Revised Code.

(P)(1) "Nonemergency medical service organization" means a person that does both of the following:

(a) Provides services to the public on a regular basis for the purpose of transporting individuals who require the use of a wheelchair or are confined to a wheelchair to receive health care services at health care facilities or health care practitioners' offices in nonemergency circumstances;

(b) Provides the services for a fee, regardless of whether the fee is paid by the person being transported, a third party payer, as defined in section 3702.51 of the Revised Code, or any other person or government entity.

(2) "Nonemergency medical service organization" does not include a health care facility, as defined in section 1751.01 of the Revised Code, that provides ambulette services only to patients of that facility.

(Q) "Nontransport vehicle" means a motor vehicle operated by a licensed emergency medical service organization not as an ambulance, but as a vehicle for providing services in conjunction with the ambulances operated by the organization or other emergency medical service organizations.

(R) "Patient" means any individual who as a result of illness or injury needs medical attention, whose physical or mental condition is such that there is imminent danger of loss of life or

significant health impairment, who may be otherwise incapacitated 49945
or helpless as a result of a physical or mental condition, or 49946
whose physical condition requires the use of a wheelchair. 49947

(S) "Rotorcraft air ambulance" means a helicopter or other 49948
aircraft capable of vertical takeoffs, vertical landings, and 49949
hovering that is specifically designed, constructed, or modified 49950
and equipped and is intended to be used as a means of air medical 49951
transportation. 49952

Sec. 4766.03. (A) The ~~Ohio~~ state board of emergency medical, 49953
fire, and transportation board services shall adopt rules, in 49954
accordance with Chapter 119. of the Revised Code, implementing the 49955
requirements of this chapter. The rules shall include provisions 49956
relating to the following: 49957

(1) Requirements for an emergency medical service 49958
organization to receive a permit for an ambulance or nontransport 49959
vehicle; 49960

(2) Requirements for an emergency medical service 49961
organization to receive a license as a basic life-support, 49962
intermediate life-support, advanced life-support, or mobile 49963
intensive care unit organization; 49964

(3) Requirements for a nonemergency medical service 49965
organization to receive a permit for an ambulette vehicle; 49966

(4) Requirements for a nonemergency medical service 49967
organization to receive a license for an ambulette service; 49968

(5) Requirements for an air medical service organization to 49969
receive a permit for a rotorcraft air ambulance or fixed wing air 49970
ambulance; 49971

(6) Requirements for licensure of air medical service 49972
organizations; 49973

(7) Forms for applications and renewals of licenses and 49974

permits;	49975
(8) Requirements for record keeping of service responses made by licensed emergency medical service organizations;	49976 49977
(9) Fee amounts for licenses and permits, and their renewals;	49978
(10) Inspection requirements for licensees' vehicles or aircraft, records, and physical facilities;	49979 49980
(11) Fee amounts for inspections of ambulances, ambulettes, rotorcraft air ambulances, fixed wing air ambulances, and nontransport vehicles;	49981 49982 49983
(12) Requirements for ambulances and nontransport vehicles used by licensed emergency medical service organizations, for ambulette vehicles used by licensed nonemergency medical service organizations, and for rotorcraft air ambulances or fixed wing air ambulances used by licensed air medical service organizations that specify for each type of vehicle or aircraft the types of equipment that must be carried, the communication systems that must be maintained, and the personnel who must staff the vehicle or aircraft;	49984 49985 49986 49987 49988 49989 49990 49991 49992
(13) The level of care each type of emergency medical service organization, nonemergency medical service organization, and air medical service organization is authorized to provide;	49993 49994 49995
(14) Eligibility requirements for employment as an ambulette driver, including grounds for disqualification due to the results of a motor vehicle law violation check, chemical test, or criminal records check. The rule may require that an applicant for employment as an ambulette driver provide a set of fingerprints to law enforcement authorities if the applicant comes under final consideration for employment.	49996 49997 49998 49999 50000 50001 50002
(15) Any other rules that the board determines necessary for the implementation and enforcement of this chapter.	50003 50004

(B) In the rules for ambulances and nontransport vehicles 50005
adopted under division (A)(12) of this section, the board may 50006
establish requirements that vary according to whether the 50007
emergency medical service organization using the vehicles is 50008
licensed as a basic life-support, intermediate life-support, 50009
advanced life-support, or mobile intensive care unit organization. 50010

(C) A mobile intensive care unit that is not dually certified 50011
to provide advanced life-support and meets the requirements of the 50012
rules adopted under this section is not required to carry 50013
immobilization equipment, including board splint kits, traction 50014
splints, backboards, backboard straps, cervical immobilization 50015
devices, cervical collars, stair chairs, folding cots, or other 50016
types of immobilization equipment determined by the board to be 50017
unnecessary for mobile intensive care units. 50018

A mobile intensive care unit is exempt from the emergency 50019
medical technician staffing requirements of section 4765.43 of the 50020
Revised Code when it is staffed by at least one physician or 50021
registered nurse and another person, designated by a physician, 50022
who holds a valid license or certificate to practice in a health 50023
care profession, and when at least one of the persons staffing the 50024
mobile intensive care unit is a registered nurse whose training 50025
meets or exceeds the training required for a paramedic. 50026

Sec. 4766.04. (A) Except as otherwise provided in this 50027
chapter, no person shall furnish, operate, conduct, maintain, 50028
advertise, engage in, or propose or profess to engage in the 50029
business or service in this state of transporting persons who are 50030
seriously ill, injured, or otherwise incapacitated or who require 50031
the use of a wheelchair or are confined to a wheelchair unless the 50032
person is licensed pursuant to this section. 50033

(B) To qualify for a license as a basic life-support, 50034
intermediate life-support, advanced life-support, or mobile 50035

intensive care unit organization, an emergency medical service organization shall do all of the following: 50036
50037

(1) Apply for a permit for each ambulance and nontransport vehicle owned or leased as provided in section 4766.07 of the Revised Code; 50038
50039
50040

(2) Meet all requirements established in rules adopted by the ~~Ohio state board of emergency~~ medical, fire, and transportation board services regarding ambulances and nontransport vehicles, including requirements pertaining to equipment, communications systems, staffing, and level of care the particular organization is permitted to render; 50041
50042
50043
50044
50045
50046

(3) Maintain the appropriate type and amount of insurance as specified in section 4766.06 of the Revised Code; 50047
50048

(4) Meet all other requirements established under rules adopted by the board for the particular license. 50049
50050

(C) To qualify for a license to provide ambulette service, a nonemergency medical service organization shall do all of the following: 50051
50052
50053

(1) Apply for a permit for each ambulette owned or leased as provided in section 4766.07 of the Revised Code; 50054
50055

(2) Meet all requirements established in rules adopted by the ~~Ohio state board of emergency~~ medical, fire, and transportation board services regarding ambulettes, including requirements pertaining to equipment, communication systems, staffing, and level of care the organization is permitted to render; 50056
50057
50058
50059
50060

(3) Maintain the appropriate type and amount of insurance as specified in section 4766.06 of the Revised Code; 50061
50062

(4) Meet all other requirements established under rules adopted by the board for the license. 50063
50064

(D) To qualify for a license to provide air medical 50065

transportation, an air medical service organization shall do all 50066
of the following: 50067

(1) Apply for a permit for each rotorcraft air ambulance and 50068
fixed wing air ambulance owned or leased as provided in section 50069
4766.07 of the Revised Code; 50070

(2) Meet all requirements established in rules adopted by the 50071
~~Ohio state board of emergency~~ medical, fire, and transportation 50072
~~board services~~ regarding rotorcraft air ambulances and fixed wing 50073
air ambulances, including requirements pertaining to equipment, 50074
communication systems, staffing, and level of care the 50075
organization is permitted to render; 50076

(3) Maintain the appropriate type and amount of insurance as 50077
specified in section 4766.06 of the Revised Code; 50078

(4) Meet all other requirements established under rules 50079
adopted by the board for the license. 50080

(E) An emergency medical service organization that applies 50081
for a license as a basic life-support, intermediate life-support, 50082
advanced life-support, or mobile intensive care unit organization; 50083
a nonemergency medical service organization that applies for a 50084
license to provide ambulette service; or an air medical service 50085
organization that applies for a license to provide air medical 50086
transportation shall submit a completed application to the board, 50087
on a form provided by the board for each particular license, 50088
together with the appropriate fees established under section 50089
4766.05 of the Revised Code. The application form shall include 50090
all of the following: 50091

(1) The name and business address of the operator of the 50092
organization for which licensure is sought; 50093

(2) The name under which the applicant will operate the 50094
organization; 50095

(3) A list of the names and addresses of all officers and directors of the organization;	50096 50097
(4) For emergency medical service organizations and nonemergency medical service organizations, a description of each vehicle to be used, including the make, model, year of manufacture, mileage, vehicle identification number, and the color scheme, insignia, name, monogram, or other distinguishing characteristics to be used to designate the applicant's vehicle;	50098 50099 50100 50101 50102 50103
(5) For air medical service organizations using fixed wing air ambulances, a description of each aircraft to be used, including the make, model, year of manufacture, and aircraft hours on airframe;	50104 50105 50106 50107
(6) For air medical service organizations using rotorcraft air ambulances, a description of each aircraft to be used, including the make, model, year of manufacture, aircraft hours on airframe, aircraft identification number, and the color scheme, insignia, name, monogram, or other distinguishing characteristics to be used to designate the applicant's rotorcraft air ambulance;	50108 50109 50110 50111 50112 50113
(7) The location and description of each place from which the organization will operate;	50114 50115
(8) A description of the geographic area to be served by the applicant;	50116 50117
(9) Any other information the board, by rule, determines necessary.	50118 50119
(F) Within sixty days after receiving a completed application for licensure as a basic life-support, intermediate life-support, advanced life-support, or mobile intensive care unit organization; an ambulette service; or an air medical service organization, the board shall approve or deny the application. The board shall deny an application if it determines that the applicant does not meet the requirements of this chapter or any rules adopted under it.	50120 50121 50122 50123 50124 50125 50126

The board shall send notice of the denial of an application by 50127
certified mail to the applicant. The applicant may request a 50128
hearing within ten days after receipt of the notice. If the board 50129
receives a timely request, it shall hold a hearing in accordance 50130
with Chapter 119. of the Revised Code. 50131

(G) If an applicant or licensee operates or plans to operate 50132
an organization in more than one location under the same or 50133
different identities, the applicant or licensee shall apply for 50134
and meet all requirements for licensure or renewal of a license, 50135
other than payment of a license fee or renewal fee, for operating 50136
the organization at each separate location. An applicant or 50137
licensee that operates or plans to operate under the same 50138
organization identity in separate locations shall pay only a 50139
single license fee. 50140

(H) An emergency medical service organization that wishes to 50141
provide ambulance services to the public must apply for a separate 50142
license under division (C) of this section. 50143

(I) Each license issued under this section and each permit 50144
issued under section 4766.07 of the Revised Code expires one year 50145
after the date of issuance and may be renewed in accordance with 50146
the standard renewal procedures of Chapter 4745. of the Revised 50147
Code. An application for renewal shall include the license or 50148
permit renewal fee established under section 4766.05 of the 50149
Revised Code. An applicant for renewal of a permit also shall 50150
submit to the board proof of an annual inspection of the vehicle 50151
or aircraft for which permit renewal is sought. The board shall 50152
renew a license if the applicant meets the requirements for 50153
licensure and shall renew a permit if the applicant and vehicle or 50154
aircraft meet the requirements to maintain a permit for that 50155
vehicle or aircraft. 50156

(J) Each licensee shall maintain accurate records of all 50157
service responses conducted. The records shall be maintained on 50158

forms prescribed by the board and shall contain information as 50159
specified by rule by the board. 50160

Sec. 4766.05. (A) The ~~Ohio~~ state board of emergency medical, 50161
fire, and transportation board services shall establish by rule a 50162
license fee, a permit fee for each ambulance, ambulette, 50163
rotorcraft air ambulance, fixed wing air ambulance, and 50164
nontransport vehicle owned or leased by the licensee that is or 50165
will be used as provided in section 4766.07 of the Revised Code, 50166
and fees for renewals of licenses and permits, taking into 50167
consideration the actual costs incurred by the board in carrying 50168
out its duties under this chapter. However, the fee for each 50169
license and each renewal of a license shall not exceed one hundred 50170
dollars, and the fee for each permit and each renewal of a permit 50171
shall not exceed one hundred dollars for each ambulance, 50172
rotorcraft air ambulance, fixed wing air ambulance, and 50173
nontransport vehicle. ~~The fee for each permit and each renewal of~~ 50174
~~a permit shall be twenty-five dollars for each ambulette for one~~ 50175
~~year after March 9, 2004. Thereafter, the board shall determine by~~ 50176
rule the fee, which shall not exceed fifty dollars, for each 50177
permit and each renewal of a permit for each ambulette. For 50178
purposes of establishing fees, "actual costs" includes the costs 50179
of salaries, expenses, inspection equipment, supervision, and 50180
program administration. 50181

(B) The board shall deposit all fees and other moneys 50182
collected pursuant to sections 4766.04, 4766.07, and 4766.08 of 50183
the Revised Code in the state treasury to the credit of the 50184
occupational licensing and regulatory fund, which is created by 50185
section 4743.05 of the Revised Code. All moneys from the fund 50186
shall be used solely for the salaries and expenses of the board 50187
incurred in implementing and enforcing this chapter. 50188

(C) The board, subject to the approval of the controlling 50189

board, may establish fees in excess of the maximum amounts allowed 50190
under division (A) of this section, but such fees shall not exceed 50191
those maximum amounts by more than fifty per cent. 50192

Sec. 4766.07. (A) Except as otherwise provided by rule of the 50193
~~Ohio~~ state board of emergency medical, fire, and transportation 50194
~~board~~ services, each emergency medical service organization, 50195
nonemergency medical service organization, and air medical service 50196
organization subject to licensure under this chapter shall possess 50197
a valid permit for each ambulance, ambulette, rotorcraft air 50198
ambulance, fixed wing air ambulance, and nontransport vehicle it 50199
owns or leases that is or will be used by the licensee to perform 50200
the services permitted by the license. Each licensee and license 50201
applicant shall submit the appropriate fee and an application for 50202
a permit for each ambulance, ambulette, rotorcraft air ambulance, 50203
fixed wing air ambulance, and nontransport vehicle to the ~~Ohio~~ 50204
state board of emergency medical, fire, and transportation board 50205
services on forms provided by the board. The application shall 50206
include documentation that the vehicle or aircraft meets the 50207
appropriate standards set by the board, that the vehicle or 50208
aircraft has been inspected pursuant to division (C) of this 50209
section, that the permit applicant maintains insurance as provided 50210
in section 4766.06 of the Revised Code, and that the vehicle or 50211
aircraft and permit applicant meet any other requirements 50212
established under rules adopted by the board. 50213

The ~~Ohio~~ state board of emergency medical, fire, and 50214
transportation ~~board~~ services may adopt rules in accordance with 50215
Chapter 119. of the Revised Code to authorize the temporary use of 50216
a vehicle or aircraft for which a permit is not possessed under 50217
this section in back-up or disaster situations. 50218

(B)(1) Within sixty days after receiving a completed 50219
application for a permit, the board shall issue or deny the 50220

permit. The board shall deny an application if it determines that 50221
the permit applicant, vehicle, or aircraft does not meet the 50222
requirements of this chapter and the rules adopted under it that 50223
apply to permits for ambulances, ambulettes, rotorcraft air 50224
ambulances, fixed wing air ambulances, and nontransport vehicles. 50225
The board shall send notice of the denial of an application by 50226
certified mail to the permit applicant. The permit applicant may 50227
request a hearing within ten days after receipt of the notice. If 50228
the board receives a timely request, it shall hold a hearing in 50229
accordance with Chapter 119. of the Revised Code. 50230

(2) If the board issues the vehicle permit for an ambulance, 50231
ambulette, or nontransport vehicle, it also shall issue a decal, 50232
in a form prescribed by rule, to be displayed on the rear window 50233
of the vehicle. The board shall not issue a decal until all of the 50234
requirements for licensure and permit issuance have been met. 50235

(3) If the board issues the aircraft permit for a rotorcraft 50236
air ambulance or fixed wing air ambulance, it also shall issue a 50237
decal, in a form prescribed by rule, to be displayed on the left 50238
fuselage aircraft window in a manner that complies with all 50239
applicable federal aviation regulations. The board shall not issue 50240
a decal until all of the requirements for licensure and permit 50241
issuance have been met. 50242

(C) In addition to any other requirements that the board 50243
establishes by rule, a licensee or license applicant applying for 50244
an initial vehicle or aircraft permit under division (A) of this 50245
section shall submit to the board the vehicle or aircraft for 50246
which the permit is sought. Thereafter, a licensee shall annually 50247
submit to the board each vehicle or aircraft for which a permit 50248
has been issued. 50249

(1) The board shall conduct a physical inspection of an 50250
ambulance, ambulette, or nontransport vehicle to determine its 50251
roadworthiness and compliance with standard motor vehicle 50252

requirements. 50253

(2) The board shall conduct a physical inspection of the 50254
medical equipment, communication system, and interior of an 50255
ambulance to determine the operational condition and safety of the 50256
equipment and the ambulance's interior and to determine whether 50257
the ambulance is in compliance with the federal requirements for 50258
ambulance construction that were in effect at the time the 50259
ambulance was manufactured, as specified by the general services 50260
administration in the various versions of its publication titled 50261
"federal specification for the star-of-life ambulance, 50262
KKK-A-1822." 50263

(3) The board shall conduct a physical inspection of the 50264
equipment, communication system, and interior of an ambulette to 50265
determine the operational condition and safety of the equipment 50266
and the ambulette's interior and to determine whether the 50267
ambulette is in compliance with state requirements for ambulette 50268
construction. The board shall determine by rule requirements for 50269
the equipment, communication system, interior, and construction of 50270
an ambulette. 50271

(4) The board shall conduct a physical inspection of the 50272
medical equipment, communication system, and interior of a 50273
rotorcraft air ambulance or fixed wing air ambulance to determine 50274
the operational condition and safety of the equipment and the 50275
aircraft's interior. 50276

(5) The board shall issue a certificate to the applicant for 50277
each vehicle or aircraft that passes the inspection and may assess 50278
a fee for each inspection, as established by the board. 50279

(6) The board shall adopt rules regarding the implementation 50280
and coordination of inspections. The rules may permit the board to 50281
contract with a third party to conduct the inspections required of 50282
the board under this section. 50283

Sec. 4766.08. (A) The ~~Ohio~~ state board of emergency medical, 50284
fire, and transportation board ~~may~~ services, pursuant to an 50285
adjudication conducted in accordance with Chapter 119. of the 50286
Revised Code, may suspend or revoke any license or permit or 50287
renewal thereof issued under this chapter for any one or 50288
combination of the following causes: 50289

(1) Violation of this chapter or any rule adopted thereunder; 50290

(2) Refusal to permit the board to inspect a vehicle or 50291
aircraft used under the terms of a permit or to inspect the 50292
records or physical facilities of a licensee; 50293

(3) Failure to meet the ambulance, ambulette, rotorcraft air 50294
ambulance, fixed wing air ambulance, and nontransport vehicle 50295
requirements specified in this chapter or the rules adopted 50296
thereunder; 50297

(4) Violation of an order issued by the board; 50298

(5) Failure to comply with any of the terms of an agreement 50299
entered into with the board regarding the suspension or revocation 50300
of a license or permit or the imposition of a penalty under this 50301
section. 50302

(B) If the board determines that the records, record-keeping 50303
procedures, or physical facilities of a licensee, or an ambulance, 50304
ambulette, rotorcraft air ambulance, fixed wing air ambulance, or 50305
nontransport vehicle for which a valid permit has been issued, do 50306
not meet the standards specified in this chapter and the rules 50307
adopted thereunder, the board shall notify the licensee of any 50308
deficiencies within thirty days of finding the deficiencies. If 50309
the board determines that the deficiencies exist and they remain 50310
uncorrected after thirty days, the board may suspend the license, 50311
vehicle permit, or aircraft permit. The licensee, notwithstanding 50312
the suspension under this division, may operate until all appeals 50313

have been exhausted. 50314

(C) At the discretion of the board, a licensee whose license 50315
has been suspended or revoked under this section may be ineligible 50316
to be licensed under this chapter for a period of not more than 50317
three years from the date of the violation, provided that the 50318
board shall make no determination on a period of ineligibility 50319
until all the licensee's appeals relating to the suspension or 50320
revocation have been exhausted. 50321

(D) The board may, in addition to any other action taken 50322
under this section and after a hearing conducted pursuant to 50323
Chapter 119. of the Revised Code, impose a penalty of not more 50324
than fifteen hundred dollars for any violation specified in this 50325
section. The attorney general shall institute a civil action for 50326
the collection of any such penalty imposed. 50327

Sec. 4766.09. This chapter does not apply to any of the 50328
following: 50329

(A) A person rendering services with an ambulance in the 50330
event of a disaster situation when licensees' vehicles based in 50331
the locality of the disaster situation are incapacitated or 50332
insufficient in number to render the services needed; 50333

(B) Any person operating an ambulance, ambulette, rotorcraft 50334
air ambulance, or fixed wing air ambulance outside this state 50335
unless receiving a person within this state for transport to a 50336
location within this state; 50337

(C) A publicly owned or operated emergency medical service 50338
organization and the vehicles it owns or leases and operates, 50339
except as provided in section 307.051, division (G) of section 50340
307.055, division (F) of section 505.37, division (B) of section 50341
505.375, and division (B)(3) of section 505.72 of the Revised 50342
Code; 50343

(D) An ambulance, ambulette, rotorcraft air ambulance, fixed wing air ambulance, or nontransport vehicle owned or leased and operated by the federal government;	50344 50345 50346
(E) A publicly owned and operated fire department vehicle;	50347
(F) Emergency vehicles owned by a corporation and operating only on the corporation's premises, for the sole use by that corporation;	50348 50349 50350
(G) An ambulance, nontransport vehicle, or other emergency medical service organization vehicle owned and operated by a municipal corporation;	50351 50352 50353
(H) A motor vehicle titled in the name of a volunteer rescue service organization, as defined in section 4503.172 of the Revised Code;	50354 50355 50356
(I) A public emergency medical service organization;	50357
(J) A fire department, rescue squad, or life squad comprised of volunteers who provide services without expectation of remuneration and do not receive payment for services other than reimbursement for expenses;	50358 50359 50360 50361
(K) A private, nonprofit emergency medical service organization when fifty per cent or more of its personnel are volunteers, as defined in section 4765.01 of the Revised Code;	50362 50363 50364
(L) Emergency medical service personnel who are regulated by the state board of emergency medical, <u>fire, and transportation</u> services under Chapter 4765. of the Revised Code;	50365 50366 50367
(M) Any of the following that operates a transit bus, as that term is defined in division (Q) of section 5735.01 of the Revised Code, unless the entity provides ambulette services that are reimbursed under the state medicaid plan:	50368 50369 50370 50371
(1) A public nonemergency medical service organization;	50372
(2) An urban or rural public transit system;	50373

(3) A private nonprofit organization that receives grants under section 5501.07 of the Revised Code.	50374 50375
(N)(1) An entity, to the extent it provides ambulette services, if the entity meets all of the following conditions:	50376 50377
(a) The entity is certified by the department of aging or the department's designee in accordance with section 173.391 of the Revised Code or operates under a contract or grant agreement with the department or the department's designee in accordance with section 173.392 of the Revised Code.	50378 50379 50380 50381 50382
(b) The entity meets the requirements of section 4766.14 of the Revised Code.	50383 50384
(c) The entity does not provide ambulette services that are reimbursed under the state medicaid plan.	50385 50386
(2) A vehicle, to the extent it is used to provide ambulette services, if the vehicle meets both of the following conditions:	50387 50388
(a) The vehicle is owned by an entity that meets the conditions specified in division (N)(1) of this section.	50389 50390
(b) The vehicle does not provide ambulette services that are reimbursed under the state medicaid plan.	50391 50392
(O) A vehicle that meets both of the following criteria, unless the vehicle provides services that are reimbursed under the state medicaid plan:	50393 50394 50395
(1) The vehicle was purchased with funds from a grant made by the United States secretary of transportation under 49 U.S.C. 5310;	50396 50397 50398
(2) The department of transportation holds a lien on the vehicle.	50399 50400
Sec. 4766.10. This chapter does not invalidate any ordinance or resolution adopted by a municipal corporation that establishes	50401 50402

standards for the licensure of emergency medical service 50403
organizations as basic life-support, intermediate life-support, or 50404
advanced life-support service organizations that have their 50405
principal places of business located within the limits of the 50406
municipal corporation, as long as the licensure standards meet or 50407
exceed the standards established in this chapter and the rules 50408
adopted thereunder. 50409

Emergency medical service organizations licensed by a 50410
municipal corporation are subject to the jurisdiction of the ~~Ohio~~ 50411
state board of emergency medical, fire, and transportation board 50412
services, but the fees they pay to the board for licenses, 50413
permits, and renewals thereof shall not exceed fifty per cent of 50414
the fee amounts established by the board pursuant to section 50415
4766.03 of the Revised Code. The board may choose to waive the 50416
vehicle inspection requirements and inspection fees, but not the 50417
permit fees, for the vehicles of organizations licensed by a 50418
municipal corporation. 50419

Sec. 4766.11. (A) The ~~Ohio~~ state board of emergency medical, 50420
fire, and transportation board services may investigate alleged 50421
violations of this chapter or the rules adopted under it and may 50422
investigate any complaints received regarding alleged violations. 50423

In addition to any other remedies available and regardless of 50424
whether an adequate remedy at law exists, the board may apply to 50425
the court of common pleas in the county where a violation of any 50426
provision of this chapter or any rule adopted pursuant thereto is 50427
occurring for a temporary or permanent injunction restraining a 50428
person from continuing to commit that violation. On a showing that 50429
a person has committed a violation, the court shall grant the 50430
injunction. 50431

In conducting an investigation under this section, the board 50432

may issue subpoenas compelling the attendance and testimony of 50433
witnesses and the production of books, records, and other 50434
documents pertaining to the investigation. If a person fails to 50435
obey a subpoena from the board, the board may apply to the court 50436
of common pleas in the county where the investigation is being 50437
conducted for an order compelling the person to comply with the 50438
subpoena. On application by the board, the court shall compel 50439
obedience by attachment proceedings for contempt, as in the case 50440
of disobedience of the requirements of a subpoena from the court 50441
or a refusal to testify therein. 50442

(B) The ~~medical transportation~~ board may suspend a license 50443
issued under this chapter without a prior hearing if it determines 50444
that there is evidence that the license holder is subject to 50445
action under this section and that there is clear and convincing 50446
evidence that continued operation by the license holder presents a 50447
danger of immediate and serious harm to the public. The 50448
chairperson and executive director of the board shall make a 50449
preliminary determination and describe the evidence on which they 50450
made their determination to the board members. The board by 50451
resolution may designate another board member to act in place of 50452
the chairperson or another employee to act in place of the 50453
executive director in the event that the chairperson or executive 50454
director is unavailable or unable to act. Upon review of the 50455
allegations, the board, by the affirmative vote of ~~at least four~~ a 50456
majority of its members, may suspend the license without a 50457
hearing. 50458

~~Any method of communication, including a telephone conference 50459
call, may be utilized for describing the evidence to the board 50460
members, for reviewing the allegations, and for voting on the 50461
suspension.~~ 50462

Immediately following the decision by the board to suspend a 50463
license under this division, the board shall issue a written order 50464

of suspension and cause it to be delivered in accordance with 50465
section 119.07 of the Revised Code. If the license holder subject 50466
to the suspension requests an adjudication hearing by the board, 50467
the date set for the adjudication shall be within fifteen days but 50468
not earlier than seven days after the request unless another date 50469
is agreed to by the license holder and the board. 50470

Any summary suspension imposed under this division remains in 50471
effect, unless reversed by the board, until a final adjudicative 50472
order issued by the board pursuant to this section and Chapter 50473
119. of the Revised Code becomes effective. The board shall issue 50474
its final adjudicative order not less than ninety days after 50475
completion of its adjudication hearing. Failure to issue the order 50476
by that day shall cause the summary suspension order to end, but 50477
such failure shall not affect the validity of any subsequent final 50478
adjudication order. 50479

Sec. 4766.12. If a county, township, joint ambulance 50480
district, or joint emergency medical services district chooses to 50481
have the ~~Ohio~~ state board of emergency medical, fire, and 50482
transportation board services license its emergency medical 50483
service organizations and issue permits for its vehicles pursuant 50484
to this chapter, except as may be otherwise provided, all 50485
provisions of this chapter and all rules adopted by the board 50486
thereunder are fully applicable. However, a county, township, 50487
joint ambulance district, or joint emergency medical services 50488
district is not required to obtain any type of permit from the 50489
board for any of its nontransport vehicles. 50490

Sec. 4766.13. The ~~Ohio~~ state board of emergency medical, 50491
fire, and transportation board services, by endorsement, may 50492
license and issue vehicle permits to an emergency medical service 50493
organization or a nonemergency medical service organization that 50494
is regulated by another state. To qualify for a license and 50495

vehicle permits by endorsement, an organization must submit 50496
evidence satisfactory to the board that it has met standards in 50497
another state that are equal to or more stringent than the 50498
standards established by this chapter and the rules adopted under 50499
it. 50500

Sec. 4766.15. (A) An applicant for employment as an ambulette 50501
driver with an organization licensed pursuant to this chapter 50502
shall submit proof to the organization of, or give consent to the 50503
employer to obtain, all of the following: 50504

(1)(a) A valid driver's license issued pursuant to Chapter 50505
4506. or 4507. of the Revised Code, or its equivalent, if the 50506
applicant is a resident of another state; 50507

(b) A recent certified abstract of the applicant's record of 50508
convictions for violations of motor vehicle laws provided by the 50509
registrar of motor vehicles pursuant to section 4509.05 of the 50510
Revised Code, or its equivalent, if the applicant is a resident of 50511
another state. 50512

(2)(a) A certificate of completion of a course in first aid 50513
techniques offered by the American red cross or an equivalent 50514
organization; 50515

(b) A certificate of completion of a course in 50516
cardiopulmonary resuscitation, or its equivalent, offered by an 50517
organization approved by the ~~Ohio~~ state board of emergency 50518
medical, fire, and transportation board services. 50519

(3) The result of a chemical test or tests of the applicant's 50520
blood, breath, or urine conducted at a hospital or other 50521
institution approved by the board for the purpose of determining 50522
the alcohol, drug of abuse, controlled substance, or metabolite of 50523
a controlled substance content of the applicant's whole blood, 50524
blood serum or plasma, breath, or urine; 50525

(4) The result of a criminal records check conducted by the bureau of criminal identification and investigation. 50526
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(B) An organization may employ an applicant on a temporary provisional basis pending the completion of all of the requirements of this section. The length of the provisional period shall be determined by the board. 50528
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(C) An organization licensed pursuant to this chapter shall use information received pursuant to this section to determine in accordance with rules adopted by the ~~Ohio~~ state board of emergency medical, fire, and transportation board services under section 4766.03 of the Revised Code whether an applicant is disqualified for employment. 50532
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No applicant shall be accepted for permanent employment as an ambulette driver by an organization licensed pursuant to this chapter until all of the requirements of division (A) of this section have been met. 50538
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Sec. 4766.22. (A) Not later than forty-five days after the end of each fiscal year, the ~~Ohio~~ state board of emergency medical, fire, and transportation board services shall submit a report to the governor and general assembly that provides all of the following information for that fiscal year: 50542
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(1) The number of each of the following the board issued: 50547

(a) Basic life-support organization licenses; 50548

(b) Intermediate life-support organization licenses; 50549

(c) Advanced life-support organization licenses; 50550

(d) Mobile intensive care unit organization licenses; 50551

(e) Ambulette service licenses; 50552

(f) Air medical service organization licenses; 50553

(g) Ambulance permits; 50554

(h) Nontransport vehicle permits;	50555
(i) Ambulette vehicle permits;	50556
(j) Rotorcraft air ambulance permits;	50557
(k) Fixed wing air ambulance permits.	50558
(2) The amount of fees the board collected for issuing and renewing each type of license and permit specified in division (A)(1) of this section;	50559 50560 50561
(3) The number of inspections the board or a third party on the board's behalf conducted in connection with each type of license and permit specified in division (A)(1) of this section and the amount of fees the board collected for the inspections;	50562 50563 50564 50565
(4) The number of complaints that were submitted to the board;	50566 50567
(5) The number of investigations the board conducted under section 4766.11 of the Revised Code;	50568 50569
(6) The number of adjudication hearings the board held and the outcomes of the adjudications;	50570 50571
(7) The amount of penalties the board imposed and collected under section 4766.08 of the Revised Code;	50572 50573
(8) Other information the board determines reflects the board's operations.	50574 50575
(B) The board shall post the annual report required by this section on its web site and make it available to the public on request.	50576 50577 50578
Sec. 4773.08. The public <u>director of health</u> council shall adopt rules to implement and administer this chapter. In adopting the rules, the council <u>director</u> shall consider any recommendations made by the radiation advisory council created under section 3701.93 of the Revised Code. The rules shall be adopted in	50579 50580 50581 50582 50583

accordance with Chapter 119. of the Revised Code and shall not be 50584
less stringent than any applicable standards specified in 42 50585
C.F.R. 75. The rules shall establish all of the following: 50586

(A) Standards for licensing general x-ray machine operators, 50587
radiographers, radiation therapy technologists, and nuclear 50588
medicine technologists; 50589

(B) Application and renewal fees for licenses issued under 50590
this chapter that do not exceed the cost incurred in issuing and 50591
renewing the licenses; 50592

(C) Standards for accreditation of educational programs and 50593
approval of continuing education programs in general x-ray machine 50594
operation, radiography, radiation therapy technology, and nuclear 50595
medicine technology; 50596

(D) Fees for accrediting educational programs and approving 50597
continuing education programs in general x-ray machine operation, 50598
radiography, radiation therapy technology, and nuclear medicine 50599
technology that do not exceed the cost incurred in accrediting the 50600
educational programs; 50601

(E) Fees for issuing conditional licenses under section 50602
4773.05 of the Revised Code that do not exceed the cost incurred 50603
in issuing the licenses; 50604

(F) Continuing education requirements that must be met to 50605
have a license renewed under section 4773.03 of the Revised Code; 50606

(G) Continuing education requirements that the holder of a 50607
conditional license must meet to receive a license issued under 50608
section 4773.03 of the Revised Code; 50609

(H) Any other rules necessary for the implementation or 50610
administration of this chapter. 50611

Sec. 4781.01. As used in this chapter: 50612

- (A) "Industrialized unit" has the same meaning as in division 50613
(C)(3) of section 3781.06 of the Revised Code. 50614
- (B) "Installation" means any of the following: 50615
- (1) The temporary or permanent construction of stabilization, 50616
support, and anchoring systems for manufactured housing; 50617
- (2) The placement and erection of a manufactured housing unit 50618
or components of a unit on a structural support system; 50619
- (3) The supporting, blocking, leveling, securing, anchoring, 50620
underpinning, or adjusting of any section or component of a 50621
manufactured housing unit; 50622
- (4) The joining or connecting of all sections or components 50623
of a manufactured housing unit. 50624
- (C) "Manufactured home" has the same meaning as in division 50625
(C)(4) of section 3781.06 of the Revised Code. 50626
- (D) "Manufactured home park" ~~has the same meaning as in~~ 50627
~~division (A) of section 3733.01 of the Revised Code~~ means any 50628
tract of land upon which three or more manufactured or mobile 50629
homes used for habitation are parked, either free of charge or for 50630
revenue purposes, and includes any roadway, building, structure, 50631
vehicle, or enclosure used or intended for use as a part of the 50632
facilities of the park. "Manufactured home park" does not include 50633
any of the following: 50634
- (1) A tract of land used solely for the storage or display 50635
for sale of manufactured or mobile homes or solely as a temporary 50636
park-camp as defined in section 3729.01 of the Revised Code; 50637
- (2) A tract of land that is subdivided and the individual 50638
lots are for sale or sold for the purpose of installation of 50639
manufactured or mobile homes used for habitation and the roadways 50640
are dedicated to the local government authority; 50641
- (3) A tract of land within an area that is subject to local 50642

zoning authority and subdivision requirements and is subdivided, 50643
and the individual lots are for sale or sold for the purpose of 50644
installation of manufactured or mobile homes for habitation. 50645

(E) "Manufactured housing" means manufactured homes and 50646
mobile homes. 50647

(F) "Manufactured housing installer" means an individual who 50648
installs manufactured housing. 50649

(G) "Mobile home" has the same meaning as in division (O) of 50650
section 4501.01 of the Revised Code. 50651

(H) "Model standards" means the federal manufactured home 50652
installation standards established pursuant to 42 U.S.C. 5404. 50653

(I) "Permanent foundation" has the same meaning as in 50654
division (C)(5) of section 3781.06 of the Revised Code. 50655

(J) "Business" includes any activities engaged in by any 50656
person for the object of gain, benefit, or advantage either direct 50657
or indirect. 50658

(K) "Casual sale" means any transfer of a manufactured home 50659
or mobile home by a person other than a manufactured housing 50660
dealer, manufactured housing salesperson, or manufacturer to an 50661
ultimate consumer or a person who purchases the home for use as a 50662
residence. 50663

(L) "Engaging in business" means commencing, conducting, or 50664
continuing in business, or liquidating a business when the 50665
liquidator thereof holds self out to be conducting such business; 50666
making a casual sale or otherwise making transfers in the ordinary 50667
course of business when the transfers are made in connection with 50668
the disposition of all or substantially all of the transferor's 50669
assets is not engaging in business. 50670

(M) "Manufactured home park operator" ~~has the same meaning as~~ 50671
~~"operator" in section 3733.01 of the Revised Code~~ or "park 50672

operator" means the person who has responsible charge of a 50673
manufactured home park and who is licensed under sections 4781.26 50674
to 4781.35 of the Revised Code. 50675

(N) "Manufactured housing broker" means any person acting as 50676
a selling agent on behalf of an owner of a manufactured home or 50677
mobile home that is subject to taxation under section 4503.06 of 50678
the Revised Code. 50679

(O) "Manufactured housing dealer" means any person engaged in 50680
the business of selling at retail, displaying, offering for sale, 50681
or dealing in manufactured homes or mobile homes. 50682

(P) "Manufacturer" means a person who manufacturers, 50683
assembles, or imports manufactured homes or mobile homes. 50684

(Q) "Retail sale" or "sale at retail" means the act or 50685
attempted act of selling, bartering, exchanging, or otherwise 50686
disposing of a manufactured home or mobile home to an ultimate 50687
purchaser for use as a residence. 50688

(R) "Salesperson" means any individual employed by a 50689
manufactured housing dealer or manufactured housing broker to 50690
sell, display, and offer for sale, or deal in manufactured homes 50691
or mobile homes for a commission, compensation, or other valuable 50692
consideration, but does not mean any public officer performing 50693
official duties. 50694

(S) "Ultimate purchaser" means, with respect to any new 50695
manufactured home, the first person, other than a manufactured 50696
housing dealer purchasing in the capacity of a manufactured 50697
housing dealer, who purchases such new manufactured home for 50698
purposes other than resale. 50699

(T) "Tenant" means a person who is entitled under a rental 50700
agreement with a manufactured home park operator to occupy a 50701
manufactured home park lot and who does not own the home occupying 50702
the lot. 50703

(U) "Owner" means a person who is entitled under a rental agreement with a manufactured home park operator to occupy a manufactured home park lot and who owns the home occupying the lot. 50704
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(V) "Resident" means a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others. "Resident" includes both tenants and owners. 50708
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(W) "Residential premises" means a lot located within a manufactured home park and the grounds, areas, and facilities contained within the manufactured home park for the use of residents generally or the use of which is promised to a resident. 50711
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(X) "Rental agreement" means any agreement or lease, written or oral, that establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of residential premises by one of the parties. 50715
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(Y) "Security deposit" means any deposit of money or property to secure performance by the resident under a rental agreement. 50719
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(Z) "Development" means any artificial change to improved or unimproved real estate, including, without limitation, buildings or structures, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, and the construction, expansion, or substantial alteration of a manufactured home park, for which plan review is required under division (A) of section 4781.31 of the Revised Code. "Development" does not include the building, construction, erection, or manufacture of any building to which section 3781.06 of the Revised Code is applicable. 50721
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(AA) "Flood" or "flooding" means either of the following: 50731

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from any of the following: 50732
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<u>(a) The overflow of inland or tidal waters;</u>	50734
<u>(b) The unusual and rapid accumulation or runoff of surface waters from any source;</u>	50735
<u>(c) Mudslides that are proximately caused by flooding as defined in division (AA)(1)(b) of this section and that are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.</u>	50736
<u>(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining that is caused by waves or currents of water exceeding anticipated cyclical levels or that is suddenly caused by an unusually high water level in a natural body of water, and that is accompanied by a severe storm, by an unanticipated force of nature, such as a flash flood, by an abnormal tidal surge, or by some similarly unusual and unforeseeable event, that results in flooding as defined in division (AA)(1)(a) of this section.</u>	50737
<u>(BB) "Flood plain" means the area adjoining any river, stream, watercourse, or lake that has been or may be covered by flood water.</u>	50738
<u>(CC) "One-hundred-year flood" means a flood having a one per cent chance of being equaled or exceeded in any given year.</u>	50739
<u>(DD) "One-hundred-year flood plain" means that portion of a flood plain inundated by a one-hundred-year flood.</u>	50740
<u>(EE) "Person" has the same meaning as in section 1.59 of the Revised Code and also includes this state, any political subdivision of this state, and any other state or local body of this state.</u>	50741
<u>(FF) "Substantial damage" means damage of any origin sustained by a manufactured or mobile home that is situated in a</u>	50742
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manufactured home park located in a flood plain when the cost of 50764
restoring the home to its condition before the damage occurred 50765
will equal or exceed fifty per cent of the market value of the 50766
home before the damage occurred. 50767

(GG) "Substantially alter" means a change in the layout or 50768
design of a manufactured home park, including, without limitation, 50769
the movement of utilities or changes in established streets, lots, 50770
or sites or in other facilities. In the case of manufactured home 50771
parks located within a one-hundred-year flood plain, 50772
"substantially alter" also includes changes in elevation resulting 50773
from the addition of fill, grading, or excavation that may affect 50774
flood plain management. 50775

(HH) "Tract" means a contiguous area of land that consists of 50776
one or more parcels, lots, or sites that have been separately 50777
surveyed regardless of whether the individual parcels, lots, or 50778
sites have been recorded and regardless of whether the one or more 50779
parcels, lots, or sites are under common or different ownership. 50780

Sec. 4781.02. (A) There is hereby created the manufactured 50781
homes commission which consists of nine members, with three 50782
members appointed by the governor, three members appointed by the 50783
president of the senate, and three members appointed by the 50784
speaker of the house of representatives. 50785

(B)(1) Commission members shall be residents of this state, 50786
except for members appointed pursuant to divisions (B)(3)(b) and 50787
(B)(4)(a) of this section. Members shall be selected from a list 50788
of persons the Ohio manufactured homes association, or any 50789
successor entity, recommends, except for appointments made 50790
pursuant to division (B)(2) of this section. 50791

(2) The governor shall appoint the following members: 50792

(a) One member to represent the board of building standards, 50793

who may be a member of the board or a board employee not in the 50794
classified civil service, with an initial term ending December 31, 50795
2007; 50796

(b) One member ~~to represent the department of health, who may~~ 50797
~~be a department employee not in the classified civil service, with~~ 50798
~~an initial term ending December 31, 2005~~ who is registered as a 50799
sanitarian in accordance with Chapter 4736. of the Revised Code, 50800
has experience with the regulation of manufactured homes, and is 50801
an employee of a health district described in section 3709.01 of 50802
the Revised Code; 50803

(c) One member whose primary residence is a manufactured 50804
home, with an initial term ending December 31, 2006. 50805

(3) The president of the senate shall appoint the following 50806
members: 50807

(a) Two members who are manufactured housing installers who 50808
have been actively engaged in the installation of manufactured 50809
housing for the five years immediately prior to appointment, with 50810
the initial term of one installer ending December 31, 2007, and 50811
the initial term of the other installer ending December 31, 2005. 50812

(b) One member who manufactures manufactured homes in this 50813
state or who manufactures manufactured homes in another state and 50814
ships homes into this state, to represent manufactured home 50815
manufacturers, with an initial term ending December 31, 2006. 50816

(4) The speaker of the house of representatives shall appoint 50817
the following members: 50818

(a) One member who operates a manufactured or mobile home 50819
retail business in this state to represent manufactured housing 50820
dealers, with an initial term ending December 31, 2007; 50821

(b) One member who is a manufactured home park operator or is 50822
employed by an operator, with an initial term ending December 31, 50823

2005; 50824

(c) One member to represent the Ohio manufactured home association, or any successor entity, who may be the president or executive director of the association or the successor entity, with an initial term ending December 31, 2006. 50825
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(C)(1) After the initial term, each term of office is for four years ending on the thirty-first day of December. A member holds office from the date of appointment until the end of the term. No member may serve more than two consecutive four-year terms. 50829
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(2) Any member appointed to fill a vacancy that occurs prior to the expiration of a term continues in office for the remainder of that term. Any member continues in office subsequent to the expiration date of the term until the member's successor takes office or until sixty days have elapsed, which ever occurs first. 50834
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(3) A vacancy on the commission does not impair the authority of the remaining members to exercise all of the commission's powers. 50839
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(D)(1) The governor may remove any member from office for incompetence, neglect of duty, misfeasance, nonfeasance, malfeasance, or unprofessional conduct in office. 50842
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(2) Vacancies shall be filled in the manner of the original appointment. 50845
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Sec. 4781.04. (A) The manufactured homes commission shall adopt rules pursuant to Chapter 119. of the Revised Code to do all of the following: 50847
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(1) Establish uniform standards that govern the installation of manufactured housing. Not later than one hundred eighty days after the secretary of the United States department of housing and urban development adopts model standards for the installation of 50850
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manufactured housing or amends those standards, the commission 50854
shall amend its standards as necessary to be consistent with, and 50855
not less stringent than, the model standards for the design and 50856
installation of manufactured housing the secretary adopts or any 50857
manufacturers' standards that the secretary determines are equal 50858
to or not less stringent than the model standards. 50859

(2) Govern the inspection of the installation of manufactured 50860
housing. The rules shall specify that the commission, any building 50861
department or personnel of any department, ~~any licensor or~~ 50862
~~personnel of any licensor,~~ or any private third party, certified 50863
pursuant to section 4781.07 of the Revised Code shall conduct all 50864
inspections of the installation of manufactured housing located in 50865
manufactured home parks to determine compliance with the uniform 50866
installation standards the commission establishes pursuant to this 50867
section. 50868

~~As used in division (A)(2) of this section, "licensor" has~~ 50869
~~the same meaning as in section 3733.01 of the Revised Code.~~ 50870

(3) Govern the design, construction, installation, approval, 50871
and inspection of foundations and the base support systems for 50872
manufactured housing. The rules shall specify that the commission, 50873
any building department or personnel of any department, ~~any~~ 50874
~~licensor or personnel of any licensor,~~ or any private third party, 50875
certified pursuant to section 4781.07 of the Revised Code shall 50876
conduct all inspections of the installation, foundations, and base 50877
support systems of manufactured housing located in manufactured 50878
home parks to determine compliance with the uniform installation 50879
standards and foundation and base support system design the 50880
commission establishes pursuant to this section. 50881

~~As used in division (A)(3) of this section, "licensor" has~~ 50882
~~the same meaning as in section 3733.01 of the Revised Code.~~ 50883

(4) Govern the training, experience, and education 50884

requirements for manufactured housing installers, manufactured	50885
housing dealers, manufactured housing brokers, and manufactured	50886
housing salespersons;	50887
(5) Establish a code of ethics for manufactured housing	50888
installers;	50889
(6) Govern the issuance, revocation, and suspension of	50890
licenses to manufactured housing installers;	50891
(7) Establish fees for the issuance and renewal of licenses,	50892
for conducting inspections to determine an applicant's compliance	50893
with this chapter and the rules adopted pursuant to it, and for	50894
the commission's expenses incurred in implementing this chapter;	50895
(8) Establish conditions under which a licensee may enter	50896
into contracts to fulfill the licensee's responsibilities;	50897
(9) Govern the investigation of complaints concerning any	50898
violation of this chapter or the rules adopted pursuant to it or	50899
complaints involving the conduct of any licensed manufactured	50900
housing installer or person installing manufactured housing	50901
without a license, licensed manufactured housing dealer, licensed	50902
manufactured housing broker, or manufactured housing salesperson;	50903
(10) Establish a dispute resolution program for the timely	50904
resolution of warranty issues involving new manufactured homes,	50905
disputes regarding responsibility for the correction or repair of	50906
defects in manufactured housing, and the installation of	50907
manufactured housing. The rules shall provide for the timely	50908
resolution of disputes between manufacturers, manufactured housing	50909
dealers, and installers regarding the correction or repair of	50910
defects in manufactured housing that are reported by the purchaser	50911
of the home during the one-year period beginning on the date of	50912
installation of the home. The rules also shall provide that	50913
decisions made regarding the dispute under the program are not	50914
binding upon the purchaser of the home or the other parties	50915

involved in the dispute unless the purchaser so agrees in a 50916
written acknowledgement that the purchaser signs and delivers to 50917
the program within ten business days after the decision is issued. 50918

(11) Establish the requirements and procedures for the 50919
certification of building departments and building department 50920
personnel pursuant to section 4781.07 of the Revised Code; 50921

(12) Establish fees to be charged to building departments and 50922
building department personnel applying for certification and 50923
renewal of certification pursuant to section 4781.07 of the 50924
Revised Code; 50925

(13) Develop a policy regarding the maintenance of records 50926
for any inspection authorized or conducted pursuant to this 50927
chapter. Any record maintained under division (A)(13) of this 50928
section shall be a public record under section 149.43 of the 50929
Revised Code. 50930

(14) Carry out any other provision of this chapter. 50931

(B) The manufactured homes commission shall do all of the 50932
following: 50933

(1) Prepare and administer a licensure examination to 50934
determine an applicant's knowledge of manufactured housing 50935
installation and other aspects of installation the commission 50936
determines appropriate; 50937

(2) Select, provide, or procure appropriate examination 50938
questions and answers for the licensure examination and establish 50939
the criteria for successful completion of the examination; 50940

(3) Prepare and distribute any application form this chapter 50941
requires; 50942

(4) Receive applications for licenses and renewal of licenses 50943
and issue licenses to qualified applicants; 50944

(5) Establish procedures for processing, approving, and 50945

disapproving applications for licensure;	50946
(6) Retain records of applications for licensure, including all application materials submitted and a written record of the action taken on each application;	50947 50948 50949
(7) Review the design and plans for manufactured housing installations, foundations, and support systems;	50950 50951
(8) Inspect a sample of homes at a percentage the commission determines to evaluate the construction and installation of manufactured housing installations, foundations, and support systems to determine compliance with the standards the commission adopts;	50952 50953 50954 50955 50956
(9) Investigate complaints concerning violations of this chapter or the rules adopted pursuant to it, or the conduct of any manufactured housing installer, manufactured housing dealer, manufactured housing broker, or manufactured housing salesperson;	50957 50958 50959 50960
(10) Determine appropriate disciplinary actions for violations of this chapter;	50961 50962
(11) Conduct audits and inquiries of manufactured housing installers, manufactured housing dealers, and manufactured housing brokers as appropriate for the enforcement of this chapter. The commission, or any person the commission employs for the purpose, may review and audit the business records of any manufactured housing installer, dealer, or broker during normal business hours.	50963 50964 50965 50966 50967 50968
(12) Approve an installation training course, which may be offered by the Ohio manufactured homes association or other entity;	50969 50970 50971
(13) Perform any function or duty necessary to administer this chapter and the rules adopted pursuant to it.	50972 50973
<u>(C) Nothing in this section shall be construed to limit the authority of a board of health to enforce section 3701.344 or</u>	50974 50975

Chapters 3703., 3718., and 3781. of the Revised Code. 50976

Sec. 4781.07. (A) Pursuant to rules the manufactured homes 50977
commission adopts, the commission may certify municipal, township, 50978
and county building departments and the personnel of those 50979
departments, ~~licensors as defined in section 3733.01 of the~~ 50980
~~Revised Code and the personnel of those licensors,~~ or any private 50981
third party, to exercise the commission's enforcement authority, 50982
accept and approve plans and specifications for foundations, 50983
support systems and installations, and inspect manufactured 50984
housing foundations, support systems, and manufactured housing 50985
installations. Any certification is effective for three years. 50986

(B) Following an investigation and finding of facts that 50987
support its action, the commission may revoke or suspend 50988
certification. The commission may initiate an investigation on its 50989
own motion or the petition of a person affected by the enforcement 50990
or approval of plans. 50991

Sec. 4781.09. (A) The manufactured homes commission may deny, 50992
suspend, revoke, or refuse to renew the license of any 50993
manufactured home installer for any of the following reasons: 50994

(1) Failure to satisfy the requirements of section 4781.08 or 50995
4781.10 of the Revised Code; 50996

(2) Violation of this chapter or any rule adopted pursuant to 50997
it; 50998

(3) Making a material misstatement in an application for a 50999
license; 51000

(4) Installing manufactured housing without a license or 51001
without being under the supervision of a licensed manufactured 51002
housing installer; 51003

(5) Failure to appear for a hearing before the commission or 51004

to comply with any final adjudication order of the commission	51005
issued pursuant to this chapter;	51006
(6) Conviction of a felony or a crime involving moral	51007
turpitude;	51008
(7) Having had a license revoked, suspended, or denied by the	51009
commission during the preceding two years;	51010
(8) Having had a license revoked, suspended, or denied by	51011
another state or jurisdiction during the preceding two years;	51012
(9) Engaging in conduct in another state or jurisdiction that	51013
would violate this chapter if committed in this state.	51014
(10) Failing to provide written notification of an	51015
installation pursuant to division (D) of section 4781.11 of the	51016
Revised Code to a county treasurer or county auditor.	51017
(B)(1) Any person whose license or license application is	51018
revoked, suspended, denied, or not renewed or upon whom a civil	51019
penalty is imposed pursuant to division (C) of this section may	51020
request an adjudication hearing on the matter within thirty days	51021
after receipt of the notice of the action. The hearing shall be	51022
held in accordance with Chapter 119. of the Revised Code.	51023
(2) Any licensee or applicant may appeal an order made	51024
pursuant to an adjudication hearing in the manner provided in	51025
section 119.12 of the Revised Code.	51026
(C) As an alternative to suspending, revoking, or refusing to	51027
renew a manufactured housing installer's license, the commission	51028
may impose a civil penalty of not less than one hundred dollars or	51029
more than five hundred dollars per violation of this chapter or	51030
any rule adopted pursuant to it. The commission shall deposit	51031
penalties in the occupational licensing and regulatory fund	51032
pursuant to section 4743.05 of the Revised Code.	51033
(D) A person whose license is suspended, revoked, or not	51034

renewed may apply for a new license two years after the date on 51035
which the license was suspended, revoked, or not renewed. 51036

Sec. 4781.121. (A) The manufactured homes commission, 51037
pursuant to section 4781.04 of the Revised Code, may investigate 51038
any person who allegedly has committed a violation. If, after an 51039
investigation the commission determines that reasonable evidence 51040
exists that a person has committed a violation, within seven days 51041
after that determination, the commission shall send a written 51042
notice to that person in the same manner as prescribed in section 51043
119.07 of the Revised Code for licensees, except that the notice 51044
shall specify that a hearing will be held and specify the date, 51045
time, and place of the hearing. 51046

(B) The commission shall hold a hearing regarding the alleged 51047
violation in the same manner prescribed for an adjudication 51048
hearing under section 119.09 of the Revised Code. If the 51049
commission, after the hearing, determines that a violation has 51050
occurred, the commission, upon an affirmative vote of five of its 51051
members, may impose a fine not exceeding one thousand dollars per 51052
violation per day. The commission's determination is an order that 51053
the person may appeal in accordance with section 119.12 of the 51054
Revised Code. 51055

(C) If the person who allegedly committed a violation fails 51056
to appear for a hearing, the commission may request the court of 51057
common pleas of the county where the alleged violation occurred to 51058
compel the person to appear before the commission for a hearing. 51059

(D) If the commission assesses a person a civil penalty for a 51060
violation and the person fails to pay that civil penalty within 51061
the time period prescribed by the commission pursuant to section 51062
131.02 of the Revised Code, the commission shall forward to the 51063
attorney general the name of the person and the amount of the 51064
civil penalty for the purpose of collecting that civil penalty. In 51065

addition to the civil penalty assessed pursuant to this section, 51066
the person also shall pay any fee assessed by the attorney general 51067
for collection of the civil penalty. 51068

(E) The authority provided to the commission pursuant to this 51069
section, and any fine imposed under this section, shall be in 51070
addition to, and not in lieu of, all penalties and other remedies 51071
provided in this chapter. Any fines collected pursuant to this 51072
section shall be used solely to administer and enforce this 51073
chapter and rules adopted under it. Any fees collected pursuant to 51074
this section shall be transmitted to the treasurer of state and 51075
shall be credited to the manufactured homes commission regulatory 51076
fund created in section 4781.54 of the Revised Code and the rules 51077
adopted thereunder. The fees shall be used only for the purpose of 51078
administering and enforcing sections 4781.26 to 4781.35 of the 51079
Revised Code and the rules adopted thereunder. 51080

(F) As used in this section, "violation" means a violation of 51081
section 4781.11, 4781.16, or 4781.27, or any rule adopted pursuant 51082
to section 4781.04, of the Revised Code. 51083

Sec. 4781.14. ~~(A) Except as provided in division (A)(3) of~~ 51084
~~section 3733.02 of the Revised Code, the state, through the~~ The 51085
manufactured homes commission, has exclusive authority to regulate 51086
manufactured home installers, the installation of manufactured 51087
housing, and manufactured housing foundations and support systems 51088
in ~~the~~ this state. By enacting this chapter, it is the intent of 51089
the general assembly to preempt municipal corporations and other 51090
political subdivisions from regulating and licensing manufactured 51091
housing installers and regulating and inspecting the installation 51092
of manufactured housing and manufactured housing foundations and 51093
support systems. 51094

~~(B) Except as provided in division (A)(3) of section 3733.02~~ 51095
~~of the Revised Code, the~~ The manufactured homes commission has 51096

exclusive power to adopt rules of uniform application throughout 51097
the state governing installation of manufactured housing, the 51098
inspection of manufactured housing foundations and support 51099
systems, the inspection of the installation of manufactured 51100
housing, the training and licensing of manufactured housing 51101
installers, and the investigation of complaints concerning 51102
manufactured housing installers. 51103

(C) ~~Except as provided in division (A)(3) of section 3733.02~~ 51104
~~of the Revised Code, the~~ The rules the commission adopts pursuant 51105
to this chapter are the exclusive rules governing the installation 51106
of manufactured housing, the design, construction, and approval of 51107
foundations for manufactured housing, the licensure of 51108
manufactured home installers, and the fees charged for licensure 51109
of manufactured home installers. No political subdivision of the 51110
state or any department or agency of the state may establish any 51111
other standards governing the installation of manufactured 51112
housing, manufactured housing foundations and support systems, the 51113
licensure of manufactured housing installers, or fees charged for 51114
the licensure of manufactured housing installers. 51115

(D) Nothing in this section limits the authority of the 51116
attorney general to enforce Chapter 1345. of the Revised Code or 51117
to take any action permitted by the Revised Code against 51118
manufactured housing installers, retailers, or manufacturers. 51119

Sec. 4781.15. The remedies provided in ~~sections 4781.01 to~~ 51120
~~4781.14 of the Revised Code~~ this chapter are in addition to 51121
remedies otherwise available for the same conduct under state or 51122
local law. 51123

Sec. ~~3733.02~~ 4781.26. (A)(1) The ~~public health council~~ 51124
manufactured homes commission, subject to Chapter 119. of the 51125
Revised Code, shall adopt, and has the exclusive power to adopt, 51126

rules of uniform application throughout the state governing the 51127
review of plans, issuance of flood plain management permits, and 51128
issuance of licenses for manufactured home parks; the location, 51129
layout, density, construction, drainage, sanitation, safety, and 51130
operation of those parks; and notices of flood events concerning, 51131
and flood protection at, those parks. The rules pertaining to 51132
flood plain management shall be consistent with and not less 51133
stringent than the flood plain management criteria of the national 51134
flood insurance program adopted under the "National Flood 51135
Insurance Act of 1968," 82 Stat. 572, 42 U.S.C.A. 4001, as 51136
amended. The rules shall not apply to the construction, erection, 51137
or manufacture of any building to which section 3781.06 of the 51138
Revised Code is applicable. 51139

~~(2)~~(B) The rules pertaining to manufactured home parks 51140
constructed after June 30, 1971, shall specify that each home must 51141
be placed on its lot to provide not less than fifteen feet between 51142
the side of one home and the side of another home, ten feet 51143
between the end of one home and the side of another home, and five 51144
feet between the ends of two homes placed end to end. 51145

~~(3)~~(C) The manufactured homes commission shall determine 51146
compliance with the installation, blocking, tiedown, foundation, 51147
and base support system standards for manufactured housing located 51148
in manufactured home parks adopted by the commission pursuant to 51149
section 4781.04 of the Revised Code. All inspections of the 51150
installation, blocking, tiedown, foundation, and base support 51151
systems of manufactured housing in a manufactured home park that 51152
the ~~department of health or a licenser~~ commission conducts shall 51153
be conducted by a person ~~who has completed an installation~~ 51154
~~training course approved by~~ the manufactured homes commission 51155
certifies pursuant to ~~division (B)(12) of section 4781.04~~ 4781.07 51156
of the Revised Code. 51157

~~As used in division (A)(3) of this section, "manufactured~~ 51158

~~housing" has the same meaning as in section 4781.01 of the Revised Code.~~ 51159
51160

~~(B) The public health council, in accordance with Chapter 119. of the Revised Code, shall adopt rules of uniform application throughout the state establishing requirements and procedures in accordance with which the director of health may authorize licensors for the purposes of sections 3733.022 and 3733.025 of the Revised Code. The rules shall include at least provisions under which a licensor may enter into contracts for the purpose of fulfilling the licensor's responsibilities under either or both of those sections.~~ 51161
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(D) The manufactured homes commission may enter into contracts for the purpose of fulfilling the commission's annual inspection responsibilities for manufactured home parks under this chapter. Boards of health of city or general health districts shall have the right of first refusal for those contracts. 51170
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Sec. ~~3733.03~~ 4781.27. (A)(1) On or after the first day of December, but before the first day of January of the next year, every person who intends to operate a manufactured home park shall procure a license to operate the park for the next year from the ~~licensor~~ manufactured homes commission. If the applicable license fee prescribed under section ~~3733.04~~ 4781.28 of the Revised Code is not received by the ~~licensor~~ commission by the close of business on the last day of December, the applicant for the license shall pay a penalty equal to twenty-five per cent of the applicable license fee. The penalty shall accompany the license fee. If the last day of December is not a business day, the penalty attaches upon the close of business on the next business day. 51175
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(2) No manufactured home park shall be maintained or operated in this state without a license. 51188
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(3) No person who has received a license, upon the sale or disposition of the manufactured home park, may have the license transferred to the new operator. A person shall obtain a separate license to operate each manufactured home park.

(B) Before a license is initially issued and annually thereafter, or more often if necessary, the ~~licensor~~ commission shall cause each manufactured home park to be inspected ~~relative~~ to ~~for~~ compliance with sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code and the rules adopted under those sections. A record shall be made of each inspection on a form prescribed by the ~~director of health~~ commission.

(C) Each person applying for an initial license to operate a manufactured home park shall provide acceptable proof to the ~~director~~ commission that adequate fire protection will be provided and that applicable fire codes will be adhered to in the construction and operation of the park.

Sec. ~~3733.04~~ 4781.28. The ~~licensor of a manufactured home park~~ manufactured homes commission may charge a fee for an annual license to operate ~~such~~ a manufactured home park. The fee for a license shall be determined in accordance with section ~~3709.09~~ 4781.26 of the Revised Code and shall include the cost of licensing and all inspections.

~~The fee also shall include any additional amount determined by rule of the public health council, which shall be collected and transmitted by the board of health to the director of health pursuant to section 3709.092 of the Revised Code and used only for the purpose of administering and enforcing sections 3733.01 to 3733.08 of the Revised Code and the rules adopted under those sections. The portion of any fee retained by the board of health~~
Any fees collected shall be paid into a special fund transmitted to the treasurer of state and shall be credited to the

manufactured homes commission regulatory fund created in section 4781.54 of the Revised Code and used only for the purpose of administering and enforcing sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code and the rules adopted thereunder.

Sec. ~~3733.05~~ 4781.29. The ~~licensor of the health district in which a manufactured home park is or is to be located, in accordance with Chapter 119. of the Revised Code,~~ manufactured homes commission may refuse to grant, may suspend, or may revoke any license granted to any person for failure to comply with sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code or with any rule adopted ~~by the public health council~~ under section ~~3733.02~~ 4781.26 of the Revised Code.

Sec. ~~3733.06~~ 4781.30. (A) Upon a license being issued under sections ~~3733.03~~ 4781.27 to ~~3733.05~~ 4781.29 of the Revised Code, any operator shall have the right to rent or use each lot for the parking or placement of a manufactured home or mobile home to be used for human habitation without interruption for any period coextensive with any license or consecutive licenses issued under sections ~~3733.03~~ 4781.27 to ~~3733.05~~ 4781.29 of the Revised Code.

(B) No operator of a manufactured home park shall sell individual lots in a park for eight years following the issuance of the initial license for the park unless, at the time of sale, the park fulfills all platting and subdivision requirements established by the political subdivision in which the park is located, or the political subdivision has entered into an agreement with the operator regarding platting and subdivision requirements and the operator has fulfilled the terms of that agreement.

Sec. ~~3733.07~~ 4781.301. Fees authorized or charged under sections ~~3733.021, 3733.022~~ 4781.31, 4781.32, and ~~3733.04~~ 4781.28

of the Revised Code are in lieu of all license and inspection fees 51251
on or with respect to the operation or ownership of manufactured 51252
home parks within this state, except that the licensor may charge 51253
additional reasonable fees for the collection and bacteriological 51254
examination of any necessary water samples taken from any such 51255
park. 51256

Sec. ~~3733.021~~ 4781.31. (A) No person shall cause development 51257
to occur within any portion of a manufactured home park until the 51258
plans for the development have been submitted to and reviewed and 51259
approved by the ~~director of health~~ manufactured homes commission. 51260
This division does not require that plans be submitted to the 51261
~~director~~ commission for approval for the replacement of 51262
manufactured or mobile homes on previously approved lots in a 51263
manufactured home park when no development is to occur in 51264
connection with the replacement. Within thirty days after receipt 51265
of the plans, all supporting documents and materials required to 51266
complete the review, and the applicable plan review fee 51267
established under division (D) of this section, the ~~director~~ 51268
commission shall approve or disapprove the plans. 51269

(B) Any person aggrieved by the ~~director's~~ commission's 51270
disapproval of a set of plans under division (A) of this section 51271
may request a hearing on the matter within thirty days after 51272
receipt of the ~~director's~~ commission's notice of the disapproval. 51273
The hearing shall be held in accordance with Chapter 119. of the 51274
Revised Code. Thereafter, the disapproval may be appealed in the 51275
manner provided in section 119.12 of the Revised Code. 51276

(C) The ~~director~~ commission shall establish a system by which 51277
development occurring within a manufactured home park is inspected 51278
or verified in accordance with rules adopted under ~~division (A) of~~ 51279
section ~~3733.02~~ 4781.26 of the Revised Code to ensure that the 51280
development complies with the plans approved under division (A) of 51281

this section. 51282

(D) The ~~public health council~~ commission shall establish fees 51283
for reviewing plans under division (A) of this section and 51284
conducting inspections under division (C) of this section. 51285

(E) The ~~director~~ commission shall charge the appropriate fees 51286
established under division (D) of this section for reviewing plans 51287
under division (A) of this section and conducting inspections 51288
under division (C) of this section. All such plan review and 51289
inspection fees received by the ~~director~~ commission shall be 51290
transmitted to the treasurer of state and shall be credited to the 51291
~~general operations~~ occupational licensing and regulatory fund 51292
created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so 51293
credited to the fund shall be used only for the purpose of 51294
administering and enforcing sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 51295
4781.35 of the Revised Code and rules adopted under those 51296
sections. 51297

(F) Plan approvals issued under this section do not 51298
constitute an exemption from the land use and building 51299
requirements of the political subdivision in which the 51300
manufactured home park is or is to be located. 51301

Sec. ~~3733.022~~ 4781.32. (A) No person shall cause development 51302
to occur or cause the replacement of a mobile or manufactured home 51303
within any portion of a manufactured home park that is located 51304
within a one-hundred-year flood plain unless the person first 51305
obtains a permit from the ~~director of health or a licenser~~ 51306
~~authorized by the director~~ manufactured homes commission. If the 51307
development for which a permit is required under this division is 51308
to occur on a lot where a mobile or manufactured home is or is to 51309
be located, the owner of the home and the operator of the 51310
manufactured home park shall jointly obtain the permit. Each of 51311
the persons to whom a permit is jointly issued is responsible for 51312

compliance with the provisions of the approved permit that are 51313
applicable to that person. 51314

The ~~director or a licensor authorized by the director~~ 51315
commission shall disapprove an application for a permit required 51316
under this division unless the ~~director or the licensor~~ commission 51317
finds that the proposed development or replacement of a mobile or 51318
manufactured home complies with the rules adopted under ~~division~~ 51319
(A) of section ~~3733.02~~ 4781.26 of the Revised Code. No permit is 51320
required under this division for the construction, erection, or 51321
manufacture of any building to which section 3781.06 of the 51322
Revised Code applies. 51323

The ~~director or a licensor authorized by the director~~ 51324
commission may suspend or revoke a permit issued under this 51325
division for failure to comply with the rules adopted under 51326
~~division (A) of section 3733.02~~ 4781.26 of the Revised Code 51327
pertaining to flood plain management or for failure to comply with 51328
the approved permit. 51329

Any person aggrieved by the disapproval, suspension, or 51330
revocation of a permit under this division by the ~~director or by a~~ 51331
~~licensor authorized by the director~~ commission may request a 51332
hearing on the matter within thirty days after receipt of the 51333
notice of the disapproval, suspension, or revocation. The hearing 51334
shall be held in accordance with Chapter 119. of the Revised Code. 51335
Thereafter, an appeal of the disapproval, suspension, or 51336
revocation may be taken in the manner provided in section 119.12 51337
of the Revised Code. 51338

(B) The ~~public health council~~ commission shall establish fees 51339
for the issuance of permits under division (A) of this section and 51340
for necessary inspections conducted to determine compliance with 51341
those permits. 51342

(C) The ~~director or a licensor authorized by the director~~ 51343

commission shall charge the appropriate fee established under 51344
division (B) of this section for the issuance of a permit under 51345
division (A) of this section or for conducting any necessary 51346
inspection to determine compliance with the permit. If the 51347
~~director~~ commission issues such a permit or conducts such an 51348
inspection, the fee for the permit or inspection shall be 51349
transmitted to the treasurer of state and shall be credited to the 51350
~~general operations~~ occupational licensing and regulatory fund 51351
created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so 51352
credited to the fund shall be used ~~by the director~~ only for the 51353
purpose of administering and enforcing sections ~~3733.01~~ 4781.26 to 51354
~~3733.08~~ 4781.35 of the Revised Code and rules adopted under those 51355
sections. ~~If the licensor is a board of health, the permit or~~ 51356
~~inspection fee shall be deposited to the credit of the special~~ 51357
~~fund of the health district created in section 3733.04 of the~~ 51358
~~Revised Code and shall be used only for the purpose set forth in~~ 51359
~~that section.~~ 51360

Sec. ~~3733.024~~ 4781.33. (A) When a flood event affects a 51361
manufactured home park, the operator of the manufactured home 51362
park, in accordance with rules adopted under ~~division (A) of~~ 51363
section ~~3733.02~~ 4781.26 of the Revised Code, shall notify the 51364
~~licensor having jurisdiction of the occurrence of~~ manufactured 51365
homes commission and the board of health having jurisdiction where 51366
the flood event occurred within forty-eight hours after the end of 51367
the flood event. The commission, after receiving notification, 51368
shall immediately notify the board of health. 51369

~~No person shall fail to comply with this division.~~ 51370

(B) ~~The licensor having jurisdiction where a flood event~~ 51371
~~occurred that affected a manufactured home park shall notify the~~ 51372
~~director of health of the occurrence of the flood event within~~ 51373
~~twenty four hours after being notified of the flood event under~~ 51374

~~division (A) of this section. Within forty eight hours after~~ After 51375
~~being notified of such a flood event by a licenser, the director~~ 51376
~~board of health~~ shall cause an inspection to be made of the 51377
manufactured home park named in the notice. The board of health 51378
shall issue a report of the inspection to the commission within 51379
ten days after the inspection is completed. 51380

Sec. ~~3733.025~~ 4781.34. (A) If a mobile or manufactured home 51381
that is located in a flood plain is substantially damaged, the 51382
owner of the home shall make all alterations, repairs, or changes 51383
to the home, and the operator of the manufactured home park shall 51384
make all alterations, repairs, or changes to the lot on which the 51385
home is located, that are necessary to ensure compliance with the 51386
flood plain management rules adopted under ~~division (A) of section~~ 51387
~~3733.02~~ 4781.26 of the Revised Code. Such alterations, repairs, or 51388
changes may include, without limitation, removal of the home or 51389
other structures. 51390

No person shall fail to comply with this division. 51391

(B) No person shall cause to be performed any alteration, 51392
repair, or change required by division (A) of this section unless 51393
the person first obtains a permit from the ~~director of health or a~~ 51394
~~licenser authorized by the director~~ manufactured homes commission. 51395
~~The owner of the home and the operator of the manufactured home~~ 51396
~~park shall jointly obtain the permit required by this division.~~ 51397
~~Each of the persons to whom a permit is jointly issued is~~ 51398
~~responsible for compliance with the provisions of the approved~~ 51399
~~permit that are applicable to that person.~~ 51400

The ~~director or a licenser authorized by the director~~ 51401
commission shall disapprove an application for a permit required 51402
under this division unless the ~~director or the licenser~~ commission 51403
finds that the proposed alteration, repair, or change complies 51404
with the rules adopted under ~~division (A) of section~~ ~~3733.02~~ 51405

4781.26 of the Revised Code. No permit is required under this 51406
division for the construction, erection, or manufacture of any 51407
building to which section 3781.06 of the Revised Code applies. 51408

The ~~director or a licenser authorized by the director~~ 51409
commission may suspend or revoke a permit issued under this 51410
division for failure to comply with the rules adopted under 51411
~~division (A) of section 3733.02~~ 4781.26 of the Revised Code 51412
pertaining to flood plain management or for failure to comply with 51413
the approved permit for making alterations, repairs, or changes to 51414
the lot on which the manufactured home is located. 51415

Any person aggrieved by the disapproval, suspension, or 51416
revocation of a permit under this division by the ~~director or by a~~ 51417
~~licenser authorized by the director~~ commission may request a 51418
hearing on the matter within thirty days after receipt of the 51419
notice of the disapproval, suspension, or revocation. The hearing 51420
shall be held in accordance with Chapter 119. of the Revised Code. 51421
Thereafter, an appeal of the disapproval, suspension, or 51422
revocation may be taken in the manner provided in section 119.12 51423
of the Revised Code and for necessary inspections conducted to 51424
determine compliance with those permits. 51425

(C) The ~~public health council~~ commission shall establish fees 51426
for the issuance of permits under division (B) of this section and 51427
for necessary inspections conducted to determine compliance with 51428
those permits for making alterations, repairs, or changes to the 51429
lot on which the manufactured home is located. 51430

(D) The ~~director or a licenser authorized by the director~~ 51431
commission shall charge the appropriate fee established under 51432
division (C) of this section for the issuance of a permit under 51433
division (B) of this section or for conducting any necessary 51434
inspection to determine compliance with the permit. If the 51435
~~director~~ commission issues such a permit or conducts such an 51436
inspection, the fee for the permit or inspection shall be 51437

transmitted to the treasurer of state and shall be credited to the 51438
~~general operations~~ occupational licensing and regulatory fund 51439
created in section ~~3701.83~~ 4743.05 of the Revised Code. Moneys so 51440
credited to the fund shall be used ~~by the director~~ only for the 51441
purpose of administering and enforcing sections ~~3733.01~~ 4781.26 to 51442
~~3733.08~~ 4781.35 of the Revised Code and rules adopted under those 51443
sections. ~~If the licenser is a board of health, the permit or~~ 51444
~~inspection fee shall be deposited to the credit of the special~~ 51445
~~fund of the health district created in section 3733.04 of the~~ 51446
~~Revised Code and shall be used only for the purpose set forth in~~ 51447
~~that section.~~ 51448

Sec. ~~3733.08~~ 4781.35. (A) No person shall violate sections 51449
~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 of the Revised Code or the 51450
rules adopted thereunder. 51451

(B) The prosecuting attorney of the county, the city director 51452
of law, or the attorney general, upon complaint of the ~~licenser or~~ 51453
~~the director of health~~ manufactured homes commission, shall 51454
prosecute to termination or bring an action for injunction against 51455
any person violating sections ~~3733.01~~ 4781.26 to ~~3733.08~~ 4781.35 51456
of the Revised Code or the rules adopted thereunder. 51457

Sec. ~~3733.09~~ 4781.36. (A) Subject to section ~~3733.091~~ 4781.37 51458
of the Revised Code, a park operator shall not retaliate against a 51459
resident by increasing the resident's rent, decreasing services 51460
that are due to the resident, refusing to renew or threatening to 51461
refuse to renew the rental agreement with the resident, or 51462
bringing or threatening to bring an action for possession of the 51463
resident's premises because: 51464

(1) The resident has complained to an appropriate 51465
governmental agency of a violation of a building, housing, health, 51466
or safety code that is applicable to the premises, and the 51467

violation materially affects health and safety; 51468

(2) The resident has complained to the park operator of any 51469
violation of section ~~3733.10~~ 4781.38 of the Revised Code; 51470

(3) The resident joined with other residents for the purpose 51471
of negotiating or dealing collectively with the park operator on 51472
any of the terms and conditions of a rental agreement. 51473

(B) If a park operator acts in violation of division (A) of 51474
this section, the resident may: 51475

(1) Use the retaliatory action of the park operator as a 51476
defense to an action by the park operator to recover possession of 51477
the premises; 51478

(2) Recover possession of the premises; 51479

(3) Terminate the rental agreement. 51480

In addition, the resident may recover from the park operator 51481
any actual damages together with reasonable attorneys fees. 51482

(C) Nothing in division (A) of this section prohibits a park 51483
operator from increasing the rent to reflect the cost of 51484
improvements installed by the park operator in or about the 51485
premises or to reflect an increase in other costs of operation of 51486
the premises. 51487

Sec. ~~3733.091~~ 4781.37. (A) Notwithstanding section ~~3733.09~~ 51488
4781.36 of the Revised Code, a park operator may bring an action 51489
under Chapter 1923. of the Revised Code for possession of the 51490
premises if any of the following applies: 51491

(1) The resident is in default in the payment of rent. 51492

(2) The violation of the applicable building, housing, 51493
health, or safety code that the resident complained of was 51494
primarily caused by any act or lack of reasonable care by the 51495
resident, by any other person in the resident's household, or by 51496

anyone on the premises with the consent of the resident. 51497

(3) The resident is holding over the resident's term. 51498

(4) The resident is in violation of rules of the ~~public~~ 51499
~~health council~~ manufactured homes commission adopted pursuant to 51500
section ~~3733.02~~ 4781.26 of the Revised Code or rules of the 51501
manufactured home park adopted pursuant to the rules of the ~~public~~ 51502
~~health council~~ commission. 51503

(5) The resident has been absent from the manufactured home 51504
park for a period of thirty consecutive days prior to the 51505
commencement of the action, and the resident's manufactured home, 51506
mobile home, or recreational vehicle parked in the manufactured 51507
home park has been left unoccupied for that thirty-day period, 51508
without notice to the park operator and without payment of rent 51509
due under the rental agreement. 51510

(B) The maintenance of an action by the park operator under 51511
this section does not prevent the resident from recovering damages 51512
for any violation by the park operator of the rental agreement or 51513
of section ~~3733.10~~ 4781.38 of the Revised Code. 51514

Sec. ~~3733.10~~ 4781.38. (A) A park operator who is a party to a 51515
rental agreement shall: 51516

(1) Comply with the requirements of all applicable building, 51517
housing, health, and safety codes which materially affect health 51518
and safety, and comply with rules of the ~~public health council~~ 51519
manufactured homes commission; 51520

(2) Make all repairs and do whatever is reasonably necessary 51521
to put and keep the premises in a fit and habitable condition; 51522

(3) Keep all common areas of the premises in a safe and 51523
sanitary condition; 51524

(4) Maintain in good and safe working order and condition all 51525
electrical and plumbing fixtures and appliances, and septic 51526

systems, sanitary and storm sewers, refuse receptacles, and well 51527
and water systems that are supplied or required to be supplied by 51528
~~him~~ the park operator; 51529

(5) Not abuse the right of access conferred by division (B) 51530
of section ~~3733.101~~ 4781.39 of the Revised Code; 51531

(6) Except in the case of emergency or if it is impracticable 51532
to do so, give the resident reasonable notice of ~~his~~ the park 51533
operator's intent to enter onto the residential premises and enter 51534
only at reasonable times. Twenty-four hours' notice shall be 51535
presumed to be a reasonable notice in the absence of evidence to 51536
the contrary. 51537

(B) If the park operator violates any provision of this 51538
section, makes a lawful entry onto the residential premises in an 51539
unreasonable manner, or makes repeated demands for entry otherwise 51540
lawful which demands have the effect of harassing the resident, 51541
the resident may recover actual damages resulting from the 51542
violation, entry, or demands and injunctive relief to prevent the 51543
recurrence of the conduct, and if ~~he~~ the resident obtains a 51544
judgment, reasonable attorneys' fees, or terminate the rental 51545
agreement. 51546

Sec. ~~3733.101~~ 4781.39. (A) A resident who is a party to a 51547
rental agreement shall: 51548

(1) Keep that part of the premises that the resident occupies 51549
and uses safe and sanitary; 51550

(2) Dispose of all rubbish, garbage, and other waste in a 51551
clean, safe, and sanitary manner; 51552

(3) Comply with the requirements imposed on residents by all 51553
applicable state and local housing, health, and safety codes, 51554
rules of the ~~public health council~~ manufactured homes commission, 51555
and rules of the manufactured home park; 51556

(4) Personally refrain, and forbid any other person who is on 51557
the premises with the resident's permission, from intentionally or 51558
negligently destroying, defacing, damaging, or removing any 51559
fixture, appliance, or other part of the residential premises; 51560

(5) Conduct self and require other persons on the premises 51561
with the resident's consent to conduct themselves in a manner that 51562
will not disturb the resident's neighbors' peaceful enjoyment of 51563
the manufactured home park. 51564

(B) The resident shall not unreasonably withhold consent for 51565
the park operator to enter the home to inspect utility 51566
connections, or enter onto the premises in order to inspect the 51567
premises, make ordinary, necessary, or agreed repairs, 51568
decorations, alterations, or improvements, deliver parcels which 51569
are too large for the resident's mail facilities, or supply 51570
necessary or agreed services. 51571

(C) If the resident violates any provision of this section, 51572
the park operator may recover any actual damages which result from 51573
the violation and reasonable attorneys' fees. This remedy is in 51574
addition to any right of the park operator to terminate the rental 51575
agreement, to maintain an action for the possession of the 51576
premises, or injunctive relief to compel access under division (B) 51577
of this section. 51578

Sec. ~~3733.11~~ 4781.40. (A)(1) The park operator shall offer 51579
each home owner a written rental agreement for a manufactured home 51580
park lot for a term of one year or more that contains terms 51581
essentially the same as any alternative month-to-month rental 51582
agreement offered to current and prospective tenants and owners. 51583
The park operator shall offer the minimum one-year rental 51584
agreement to the owner prior to installation of the home in the 51585
manufactured home park or, if the home is in the manufactured home 51586
park, prior to the expiration of the owner's existing rental 51587

agreement. 51588

(2) The park operator shall deliver the offer to the owner by 51589
certified mail, return receipt requested, or in person. If the 51590
park operator delivers the offer to the owner in person, the owner 51591
shall complete a return showing receipt of the offer. If the owner 51592
does not accept the offer, the park operator is discharged from 51593
any obligation to make any further such offers. If the owner 51594
accepts the offer, the park operator shall, at the expiration of 51595
each successive rental agreement, offer the owner another rental 51596
agreement, for a term that is mutually agreed upon, and that 51597
contains terms essentially the same as the alternative 51598
month-to-month agreement. The park operator shall deliver 51599
subsequent rental offers by ordinary mail or personal delivery. If 51600
the park operator sells the manufactured home park to another 51601
manufactured home park operator, the purchaser is bound by the 51602
rental agreements entered into by the purchaser's predecessor. 51603

(3) If the park operator sells the manufactured home park for 51604
a use other than as a manufactured home park, the park operator 51605
shall give each tenant and owner a written notification by 51606
certified mail, return receipt requested, or by handing it to the 51607
tenant or owner in person. If the park operator delivers the 51608
notification in person, the recipient shall complete a return 51609
showing receipt of the notification. This notification shall 51610
contain notice of the sale of the manufactured home park, and 51611
notice of the date by which the tenant or owner shall vacate. The 51612
date by which the tenant shall vacate shall be at least one 51613
hundred twenty days after receipt of the written notification, and 51614
the date by which the owner shall vacate shall be at least one 51615
hundred eighty days after receipt of the written notification. 51616

(B) A park operator shall fully disclose in writing all fees, 51617
charges, assessments, including rental fees, and rules prior to a 51618
tenant or owner executing a rental agreement and assuming 51619

occupancy in the manufactured home park. No fees, charges, 51620
assessments, or rental fees so disclosed may be increased nor 51621
rules changed by a park operator without specifying the date of 51622
implementation of the changed fees, charges, assessments, rental 51623
fees, or rules, which date shall be not less than thirty days 51624
after written notice of the change and its effective date to all 51625
tenants or owners in the manufactured home park, and no fee, 51626
charge, assessment, or rental fee shall be increased during the 51627
term of any tenant's or owner's rental agreement. Failure on the 51628
part of the park operator to fully disclose all fees, charges, or 51629
assessments shall prevent the park operator from collecting the 51630
undisclosed fees, charges, or assessments. If a tenant or owner 51631
refuses to pay any undisclosed fees, charges, or assessments, the 51632
refusal shall not be used by the park operator as a cause for 51633
eviction in any court. 51634

(C) A park operator shall promulgate rules governing the 51635
rental or occupancy of a lot in the manufactured home park. The 51636
rules shall not be unreasonable, arbitrary, or capricious. A copy 51637
of the rules and any amendments to them shall be delivered by the 51638
park operator to the tenant or owner prior to signing the rental 51639
agreement. A copy of the rules and any amendments to them shall be 51640
posted in a conspicuous place upon the manufactured home park 51641
grounds. 51642

(D) No park operator shall require an owner to purchase from 51643
the park operator any personal property. The park operator may 51644
determine by rule the style or quality of skirting, equipment for 51645
tying down homes, manufactured or mobile home accessories, or 51646
other equipment to be purchased by an owner from a vendor of the 51647
owner's choosing, provided that the equipment is readily available 51648
to the owner. Any such equipment shall be installed in accordance 51649
with the manufactured home park rules. 51650

(E) No park operator shall charge any owner who chooses to 51651

install an electric or gas appliance in a home an additional fee 51652
solely on the basis of the installation, unless the installation 51653
is performed by the park operator at the request of the owner, nor 51654
shall the park operator restrict the installation, service, or 51655
maintenance of the appliance, restrict the ingress or egress of 51656
repairpersons to the manufactured home park for the purpose of 51657
installation, service, or maintenance of the appliance, nor 51658
restrict the making of any interior improvement in a home, if the 51659
installation or improvement is in compliance with applicable 51660
building codes and other provisions of law and if adequate utility 51661
services are available for the installation or improvement. 51662

(F) No park operator shall require a tenant to lease or an 51663
owner to purchase a manufactured or mobile home from the park 51664
operator or any specific person as a condition of or prerequisite 51665
to entering into a rental agreement. 51666

(G) No park operator shall require an owner to use the 51667
services of the park operator or any other specific person for 51668
installation of the manufactured or mobile home on the residential 51669
premises or for the performance of any service. 51670

(H) No park operator shall: 51671

(1) Deny any owner the right to sell the owner's manufactured 51672
home within the manufactured home park if the owner gives the park 51673
operator ten days' notice of the intention to sell the home; 51674

(2) Require the owner to remove the home from the 51675
manufactured home park solely on the basis of the sale of the 51676
home; 51677

(3) Unreasonably refuse to enter into a rental agreement with 51678
a purchaser of a home located within the operator's manufactured 51679
home park; 51680

(4) Charge any tenant or owner any fee, charge, or 51681
assessment, including a rental fee, that is not set forth in the 51682

rental agreement or, if the rental agreement is oral, is not set 51683
forth in a written disclosure given to the tenant or owner prior 51684
to the tenant or owner entering into a rental agreement; 51685

(5) Charge any owner any fee, charge, or assessment because 51686
of the transfer of ownership of a home or because a home is moved 51687
out of or into the manufactured home park, except a charge for the 51688
actual costs and expenses that are incurred by the park operator 51689
in moving the home out of or into the manufactured home park, or 51690
in installing the home in the manufactured home park and that have 51691
not been reimbursed by another tenant or owner. 51692

(I) If the park operator violates any provision of divisions 51693
(A) to (H) of this section, the tenant or owner may recover actual 51694
damages resulting from the violation, and, if the tenant or owner 51695
obtains a judgment, reasonable attorneys' fees, or terminate the 51696
rental agreement. 51697

(J) No rental agreement shall require a tenant or owner to 51698
sell, lease, or sublet the tenant's or owner's interest in the 51699
rental agreement or the manufactured or mobile home that is or 51700
will be located on the lot that is the subject of the rental 51701
agreement to any specific person or through any specific person as 51702
the person's agent. 51703

(K) No park operator shall enter into a rental agreement with 51704
the owner of a manufactured or mobile home for the use of 51705
residential premises, if the rental agreement requires the owner 51706
of the home, as a condition to the owner's renting, occupying, or 51707
remaining on the residential premises, to pay the park operator or 51708
any other person specified in the rental agreement a fee or any 51709
sum of money based on the sale of the home, unless the owner of 51710
the home uses the park operator or other person as the owner's 51711
agent in the sale of the home. 51712

(L) A park operator and a tenant or owner may include in a 51713

rental agreement any terms and conditions, including any term 51714
relating to rent, the duration of an agreement, and any other 51715
provisions governing the rights and obligations of the parties 51716
that are not inconsistent with or prohibited by sections 3733.09 51717
to 3733.20 of the Revised Code or any other rule of law. 51718

(M) Notwithstanding any other provision of the Revised Code, 51719
the owner of a manufactured or mobile home ~~that was previously~~ 51720
~~titled by a dealer~~ may utilize the services of a manufactured home 51721
housing dealer or broker licensed under Chapter 4517. of the 51722
Revised Code or a person properly licensed under Chapter ~~4735-~~ 51723
4781. of the Revised Code to sell or lease the home. 51724

Sec. ~~3733.12~~ 4781.41. (A) If a park operator fails to fulfill 51725
any obligation imposed upon ~~him~~ the park operator by section 51726
~~3733.10~~ 4781.38 of the Revised Code or by the rental agreement, or 51727
the conditions of the premises are such that the resident 51728
reasonably believes that a park operator has failed to fulfill any 51729
such obligations, or a governmental agency has found that the 51730
premises are not in compliance with building, housing, health, or 51731
safety codes which apply to any condition of the residential 51732
premises that could materially affect the health and safety of an 51733
occupant, the resident may give notice in writing to the park 51734
operator specifying the acts, omissions, or code violations that 51735
constitute noncompliance with such provisions. The notice shall be 51736
sent to the person or place where rent is normally paid. 51737
51738

(B) If a park operator receives the notice described in 51739
division (A) of this section and after receipt of the notice fails 51740
to remedy the condition within a reasonable time, considering the 51741
severity of the condition and the time necessary to remedy such 51742
condition, or within thirty days, whichever is sooner, and if the 51743
resident is current in rent payments due under the rental 51744

agreement, the resident may do one of the following: 51745

(1) Deposit all rent that is due and thereafter becomes due 51746
the park operator with the clerk of court of the municipal or 51747
county court having jurisdiction in the territory in which the 51748
residential premises are located; 51749

(2) Apply to the court for an order directing the park 51750
operator to remedy the condition. As part thereof, the resident 51751
may deposit rent pursuant to division (B)(1) of this section, and 51752
may apply for an order reducing the periodic rent due the park 51753
operator until such time as the park operator does remedy the 51754
condition, and may apply for an order to use the rent deposited to 51755
remedy the condition. In any order issued pursuant to this 51756
division, the court may require the resident to deposit rent with 51757
the clerk of court as provided in division (B)(1) of this section. 51758

Sec. ~~3733.121~~ 4781.42. (A) Whenever a resident deposits rent 51759
with the clerk of a court as provided in section ~~3733.12~~ 4781.41 51760
of the Revised Code, the clerk shall give written notice of this 51761
fact to the park operator and to ~~his~~ the park operator's agent, if 51762
any. 51763

(B) The clerk shall place all rent deposited with ~~him~~ the 51764
clerk in a separate rent escrow account in the name of the clerk 51765
in a bank or building and loan association domiciled in this 51766
state. 51767

(C) The clerk shall keep in a separate docket an account of 51768
each deposit, with the name and address of the resident, and the 51769
name and address of the park operator and of ~~his~~ the park 51770
operator's agent, if any. 51771

(D) For ~~his~~ the clerk's costs, the clerk may charge a fee of 51772
one per cent of the amount of the rent deposited, which shall be 51773
assessed as court costs. 51774

(E) All interest that has accrued on the rent deposited by the clerk of a county court under division (B) of this section shall be paid into the treasury of the political subdivision for which the clerk performs ~~his~~ the clerk's duties. All interest that has accrued on the rent deposited by the clerk of a municipal court under division (B) of this section shall be paid into the city treasury as defined in division (B) of section 1901.03 of the Revised Code.

Sec. ~~3733.122~~ 4781.43. (A) A park operator who receives notice that rent due ~~him~~ the park operator has been deposited with a clerk of court pursuant to section ~~3733.12~~ 4781.41 of the Revised Code, may:

(1) Apply to the clerk of court for release of the rent on the ground that the condition contained in the notice given pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised Code has been remedied. The clerk shall forthwith release the rent, less costs, to the park operator if the resident gives written notice to the clerk that the condition has been remedied.

(2) Apply to the court for release of the rent on the grounds that the resident did not comply with the notice requirement of division (A) of section ~~3733.12~~ 4781.41 of the Revised Code, or that the resident was not current in rent payments due under the rental agreement at the time the resident initiated rent deposits with the clerk of courts under division (B)(1) of section ~~3733.12~~ 4781.41 of the Revised Code;

(3) Apply to the court for release of the rent on the grounds that there was no violation of any obligation imposed upon the park operator by section ~~3733.10~~ 4781.38 of the Revised Code or by the rental agreement, or by any building, housing, health, or safety code, or that the condition contained in the notice given pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised

Code has been remedied. 51806

(B) The resident shall be named as a party to any action 51807
filed by the park operator under this section, and shall have the 51808
right to file an answer and counterclaim, as in other civil cases. 51809
A trial shall be held within sixty days of the date of filing of 51810
the park operator's complaint, unless for good cause shown the 51811
court grants a continuance. 51812

(C) If the court finds that there was no violation of any 51813
obligation imposed upon the park operator by section ~~3733.10~~ 51814
4781.38 of the Revised Code or by the rental agreement, or by any 51815
building, housing, health, or safety code, or that the condition 51816
contained in the notice given pursuant to division (A) of section 51817
~~3733.12~~ 4781.41 of the Revised Code has been remedied, or that the 51818
resident did not comply with the notice requirement of division 51819
(A) of section ~~3733.12~~ 4781.41 of the Revised Code, or that the 51820
resident was not current in rent payments at the time the resident 51821
initiated rent deposits with the clerk of court under division 51822
(B)(1) of section ~~3733.12~~ 4781.41 of the Revised Code, the court 51823
shall order the release to the park operator of rent on deposit 51824
with the clerk, less costs. 51825

(D) If the court finds that the condition contained in the 51826
notice given pursuant to division (A) of section ~~3733.12~~ 4781.41 51827
of the Revised Code was the result of an act or omission of the 51828
resident, or that the resident intentionally acted in bad faith in 51829
proceeding under section ~~3733.12~~ 4781.41 of the Revised Code, the 51830
resident shall be liable for damages caused to the park operator, 51831
and for costs, together with reasonable attorneys' fees if the 51832
resident intentionally acted in bad faith. 51833

Sec. ~~3733.123~~ 4781.44. (A) If a park operator brings an 51834
action for the release of rent deposited with a clerk of court, 51835
the court may, during the pendency of the action, upon application 51836

of the park operator, release part of the rent on deposit for 51837
payment of the periodic interest on a mortgage on the premises, 51838
the periodic principal payments on a mortgage on the premises, the 51839
insurance premiums for the premises, real estate taxes on the 51840
premises, utility services, repairs, and other customary and usual 51841
costs of operating the premises. 51842

(B) In determining whether to release rent for the payments 51843
described in division (A) of this section, the court shall 51844
consider the amount of rent the park operator receives from other 51845
lots, the cost of operating these lots, and the costs which may be 51846
required to remedy the condition contained in the notice given 51847
pursuant to division (A) of section ~~3733.12~~ 4781.41 of the Revised 51848
Code. 51849

Sec. ~~3733.13~~ 4781.45. If a resident commits a material 51850
violation of the rules of the manufactured home park, of the 51851
~~public health council~~ manufactured homes commission, or of 51852
applicable state and local health and safety codes, the park 51853
operator may deliver a written notification of the violation to 51854
the resident. The notification shall contain all of the following: 51855

(A) A description of the violation; 51856

(B) A statement that the rental agreement will terminate upon 51857
a date specified in the written notice not less than thirty days 51858
after receipt of the notice unless the resident remedies the 51859
violation; 51860

(C) A statement that the violation was material and that if a 51861
second material violation of any park or ~~public health council~~ 51862
commission rule, or any health and safety code, occurs within six 51863
months after the date of this notice, the rental agreement will 51864
terminate immediately; 51865

(D) A statement that a defense available to termination of 51866

the rental agreement for two material violations of park or ~~public~~ 51867
~~health council~~ commission rules, or of health and safety codes, is 51868
that the park rule is unreasonable, or that the park or ~~public~~ 51869
~~health council~~ commission rule, or health or safety code, is not 51870
being enforced against other manufactured home park residents, or 51871
that the two violations were not willful and not committed in bad 51872
faith. 51873

If the resident remedies the condition described in the 51874
notice, whether by repair, the payment of damages, or otherwise, 51875
the rental agreement shall not terminate. The park operator may 51876
terminate the rental agreement immediately if the resident commits 51877
a second material violation of the park or ~~public health council~~ 51878
commission rules, or of applicable state and local health and 51879
safety codes, subject to the defense that the park rule is 51880
unreasonable, that the park or ~~public health council~~ commission 51881
rule, or health or safety code, is not being enforced against 51882
other manufactured home park residents, or that the two violations 51883
were not willful and not committed in bad faith. 51884

Sec. ~~3733.14~~ 4781.46. In any action under sections ~~3733.09~~ 51885
~~4781.36~~ to ~~3733.20~~ 4781.52 of the Revised Code, any party may 51886
recover damages for the breach of contract or the breach of any 51887
duty that is imposed by law. 51888

Sec. ~~3733.15~~ 4781.47. (A) No provision of sections ~~3733.09~~ 51889
~~4781.36~~ to ~~3733.20~~ 4781.52 of the Revised Code may be modified or 51890
waived by any oral or written agreement except as provided in 51891
division (F) of this section. 51892

(B) No warrant of attorney to confess judgment shall be 51893
recognized in any rental agreement or in any other agreement 51894
between a park operator and resident for the recovery of rent or 51895
damages to the residential premises. 51896

(C) No agreement to pay the park operator's or resident's attorney fees shall be recognized in any rental agreement for residential premises or in any other agreement between a park operator and resident.

(D) No agreement by a resident to the exculpation or limitation of any liability of the park operator arising under law or to indemnify the park operator for that liability or its related costs shall be recognized in any rental agreement or in any other agreement between a park operator and resident.

(E) A rental agreement, or the assignment, conveyance, trust deed, or security instrument of the park operator's interest in the rental agreement may not permit the receipt of rent free of the obligation to comply with section ~~3733.10~~ 4781.38 of the Revised Code.

(F) The park operator may agree to assume responsibility for fulfilling any duty or obligation imposed on a resident by section ~~3733.101~~ 4781.39 of the Revised Code.

Sec. ~~3733.16~~ 4781.48. (A) If the court as a matter of law finds a rental agreement, or any clause of it, to have been unconscionable at the time it was made, it may refuse to enforce the rental agreement or it may enforce the remainder of the rental agreement without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result.

(B) When it is claimed or appears to the court that the rental agreement, or any clause of it, may be unconscionable, the parties shall be afforded a reasonable opportunity to present evidence as to its setting, purpose, and effect to aid the court in making the determination.

Sec. ~~3733.17~~ 4781.49. (A) No park operator of residential

premises shall initiate any act, including termination of 51927
utilities or services, exclusion from the premises, or threat of 51928
any unlawful act, against a resident, or a resident whose right to 51929
possession has terminated, for the purpose of recovering 51930
possession of residential premises, other than as provided in 51931
Chapters 1923., ~~3733.~~ 4781., and 5303. of the Revised Code. 51932

(B) No park operator of residential premises shall seize the 51933
furnishings or possessions of a resident, or of a resident whose 51934
right to possession was terminated, for the purpose of recovering 51935
rent payments, other than in accordance with an order issued by a 51936
court of competent jurisdiction. 51937

(C) A park operator who violates this section is liable in a 51938
civil action for all damages caused to a resident, or to a 51939
resident whose right to possession has terminated, together with 51940
reasonable attorneys' fees. 51941

Sec. ~~3733.18~~ 4781.50. (A) Any security deposit in excess of 51942
fifty dollars or one month's periodic rent, whichever is greater, 51943
shall bear interest on the excess at the rate of five per cent per 51944
annum if the resident remains in possession of the premises for 51945
six months or more, and shall be computed and paid annually by the 51946
park operator to the resident. 51947

(B) Upon termination of the rental agreement any property or 51948
money held by the park operator as a security deposit may be 51949
applied to the payment of past due rent and to the payment of the 51950
amount of damages that the park operator has suffered by reason of 51951
the resident's noncompliance with section ~~3733.101~~ 4781.39 of the 51952
Revised Code or the rental agreement. Any deduction from the 51953
security deposit shall be itemized and identified by the park 51954
operator in a written notice delivered to the resident together 51955
with the amount due, within thirty days after termination of the 51956
rental agreement and delivery of possession. The resident shall 51957

provide the park operator in writing with a forwarding address or 51958
new address to which the written notice and amount due from the 51959
park operator may be sent. If the resident fails to provide the 51960
park operator with the forwarding or new address as required, the 51961
resident shall not be entitled to damages or attorneys' fees under 51962
division (C) of this section. 51963

(C) If the park operator fails to comply with division (B) of 51964
this section, the resident may recover the property and money due 51965
~~him~~ the resident, together with damages in an amount equal to the 51966
amount wrongfully withheld, and reasonable attorneys' fees. 51967

Sec. ~~3733.19~~ 4781.51. (A) Every written rental agreement for 51968
residential premises shall contain the name and address of the 51969
owner of the residential premises and the name and address of the 51970
owner's agent, if any. If the owner or the owner's agent is a 51971
corporation, partnership, limited partnership, association, trust, 51972
or other entity, the address shall be the principal place of 51973
business in the county in which the residential premises are 51974
situated or if there is no place of business in such county then 51975
its principal place of business in this state, and shall include 51976
the name of the person in charge thereof. 51977

(B) If the rental agreement is oral, the park operator, at 51978
the commencement of the term of occupancy, shall deliver to the 51979
resident a written notice containing the information required in 51980
division (A) of this section. 51981

(C) If the park operator fails to provide the notice of the 51982
name and address of the owner and owner's agent, if any, as 51983
required under division (A) or (B) of this section, the notices to 51984
the park operator required under division (A) of sections ~~3733.12~~ 51985
4781.41 and ~~3733.121~~ 4781.42 of the Revised Code are waived by the 51986
park operator and the operator's agent. 51987

(D) Every written rental agreement for residential premises 51988

shall contain the following notice in ten-point boldface type: 51989

"YOUR RIGHTS AS A RESIDENT AND YOUR MANUFACTURED HOME PARK 51990
OPERATOR'S RIGHTS ARE PROTECTED BY SECTIONS ~~3733.09~~ 4781.36 TO 51991
~~3733.20~~ 4781.52 OF THE REVISED CODE, WHICH REGULATE RENTAL 51992
AGREEMENTS IN MANUFACTURED HOME PARKS." 51993

If the rental agreement is oral, the park operator, at the 51994
commencement of the term of occupancy, shall deliver the notice to 51995
the resident in writing. 51996

Sec. ~~3733.20~~ 4781.52. No municipal corporation may adopt or 51997
continue in existence any ordinance and no township may adopt or 51998
continue in existence any resolution that is in conflict with 51999
sections ~~3733.09~~ 4781.36 to ~~3733.20~~ 4781.52 of the Revised Code, 52000
or that regulates those rights and obligations of parties to a 52001
rental agreement that are regulated by sections ~~3733.09~~ 4781.36 to 52002
~~3733.20~~ 4781.52 of the Revised Code. Sections ~~3733.09~~ 4781.36 to 52003
~~3733.20~~ 4781.52 of the Revised Code do not preempt any housing, 52004
building, health, or safety codes of any municipal corporation or 52005
township. 52006

Sec. 4781.54. There is hereby created in the state treasury 52007
the manufactured homes commission regulatory fund. The fund shall 52008
consist of fees collected under section 4781.121 of the Revised 52009
Code and fees paid under section 4781.28 of the Revised Code and 52010
shall be used for the purposes described in those sections. 52011

Sec. 4781.99. (A) Whoever violates division (A) of section 52012
4781.16 of the Revised Code is guilty of a minor misdemeanor on a 52013
first offense and shall be subject to a mandatory fine of one 52014
hundred dollars. On a second offense, the person is guilty of a 52015
misdemeanor of the first degree and shall be subject to a 52016
mandatory fine of one thousand dollars. 52017

(B) Whoever violates section 4781.20 of the Revised Code is 52018
guilty of a minor misdemeanor. 52019

(C) Whoever violates any of the following is guilty of a 52020
misdemeanor of the fourth degree: 52021

(1) Division (B) or (C) of section 4781.16 of the Revised 52022
Code; 52023

(2) Section 4781.22 of the Revised Code; 52024

(3) Section 4781.23 of the Revised Code; 52025

(4) Division (A) of section 4781.24 of the Revised Code; 52026

(5) Section 4781.25 of the Revised Code; 52027

(6) Division (A) of section 4781.35 of the Revised Code. 52028

Sec. 4905.01. As used in this chapter: 52029

(A) "Railroad" has the same meaning as in section 4907.02 of 52030
the Revised Code. 52031

(B) "~~Motor transportation company~~ carrier" has the same 52032
meaning as in ~~sections 4905.03 and 4921.02~~ section 4923.01 of the 52033
Revised Code. 52034

(C) "~~Trailer~~ Motor vehicle" and "public highway" have the 52035
same meanings as in section ~~4921.02~~ 4921.01 of the Revised Code. 52036

(D) "~~Private motor carrier~~" and "~~motor vehicle~~" have the same 52037
~~meanings as in section 4923.02 of the Revised Code.~~ 52038

~~(E)~~ "Ohio coal research and development costs" means all 52039
reasonable costs associated with a facility or project undertaken 52040
by a public utility for which a recommendation to allow the 52041
recovery of costs associated therewith has been made under 52042
division (B)(7) of section 1551.33 of the Revised Code, including, 52043
but not limited to, capital costs, such as costs of debt and 52044
equity; construction and operation costs; termination and 52045

retirement costs; costs of feasibility and marketing studies 52046
associated with the project; and the acquisition and delivery 52047
costs of Ohio coal used in the project, less any expenditures of 52048
grant moneys. 52049

Sec. 4905.02. (A) As used in this chapter, "public utility" 52050
includes every corporation, company, copartnership, person, or 52051
association, the lessees, trustees, or receivers of the foregoing, 52052
defined in section 4905.03 of the Revised Code, including any 52053
public utility that operates its utility not for profit, except 52054
the following: 52055

~~(A)~~(1) An electric light company that operates its utility 52056
not for profit; 52057

~~(B)~~(2) A public utility, other than a telephone company, that 52058
is owned and operated exclusively by and solely for the utility's 52059
customers, including any consumer or group of consumers 52060
purchasing, delivering, storing, or transporting, or seeking to 52061
purchase, deliver, store, or transport, natural gas exclusively by 52062
and solely for the consumer's or consumers' own intended use as 52063
the end user or end users and not for profit; 52064

~~(C)~~(3) A public utility that is owned or operated by any 52065
municipal corporation; 52066

~~(D)~~(4) A railroad as defined in sections 4907.02 and 4907.03 52067
of the Revised Code; 52068

~~(E)~~(5) Any provider, including a telephone company, with 52069
respect to its provision of any of the following: 52070

~~(1)~~(a) Advanced services as defined in 47 C.F.R. 51.5; 52071

~~(2)~~(b) Broadband service, however defined or classified by 52072
the federal communications commission; 52073

~~(3)~~(c) Information service as defined in the 52074
"Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C. 153(20); 52075

~~(4)(d)~~ Subject to division (A) of section 4927.03 of the Revised Code, internet protocol-enabled services as defined in section 4927.01 of the Revised Code; 52076
52077
52078

~~(5)(e)~~ Subject to division (A) of section 4927.03 of the Revised Code, any telecommunications service as defined in section 4927.01 of the Revised Code to which both of the following apply: 52079
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52081

~~(a)(i)~~ The service was not commercially available on September 13, 2010, the effective date of the amendment of this section by S.B. 162 of the 128th general assembly. 52082
52083
52084

~~(b)(ii)~~ The service employs technology that became available for commercial use only after September 13, 2010, the effective date of the amendment of this section by S.B. 162 of the 128th general assembly. 52085
52086
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52088

(B)(1) "Public utility" includes a for-hire motor carrier even if the carrier is operated in connection with an entity described in division (A)(1), (2), (4), or (5) of this section. 52089
52090
52091

(2) Division (A) of this section shall not be construed to relieve a private motor carrier, operated in connection with an entity described in division (A)(1), (2), (4), or (5) of this section, from compliance with any of the following: 52092
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52095

(a) Chapter 4923. of the Revised Code; 52096

(b) Hazardous-material regulation under section 4921.15 of the Revised Code and division (H) of section 4921.19 of the Revised Code, or rules adopted thereunder; 52097
52098
52099

(c) Rules governing unified carrier registration adopted under section 4921.11 of the Revised Code. 52100
52101

Sec. 4905.03. As used in this chapter+ 52102

~~(A) Any, any~~ person, firm, copartnership, voluntary association, joint-stock association, company, or corporation, 52103
52104

wherever organized or incorporated, is: 52105

~~(1)(A)~~ A telephone company, when engaged in the business of 52106
transmitting telephonic messages to, from, through, or in this 52107
state; 52108

~~(2)(B)~~ A for-hire motor transportation company carrier, when 52109
engaged in the business of ~~carrying and~~ transporting persons or 52110
property ~~or the business of providing or furnishing such~~ 52111
~~transportation service, for hire, in or by motor propelled~~ 52112
~~vehicles of any kind, including trailers, for the public in~~ 52113
~~general, over any public street, road, or highway in this state~~ 52114
vehicle for compensation, except as provided when engaged in any 52115
of the operations in intrastate commerce described in divisions 52116
(B)(1) to (8) of section 4921.02 4921.01 of the Revised Code, but 52117
including the carrier's agents, officers, and representatives, as 52118
well as employees responsible for hiring, supervising, training, 52119
assigning, or dispatching drivers and employees concerned with the 52120
installation, inspection, and maintenance of motor-vehicle 52121
equipment and accessories; 52122

~~(3)(C)~~ An electric light company, when engaged in the 52123
business of supplying electricity for light, heat, or power 52124
purposes to consumers within this state, including supplying 52125
electric transmission service for electricity delivered to 52126
consumers in this state, but excluding a regional transmission 52127
organization approved by the federal energy regulatory commission; 52128

~~(4)(D)~~ A gas company, when engaged in the business of 52129
supplying artificial gas for lighting, power, or heating purposes 52130
to consumers within this state or when engaged in the business of 52131
supplying artificial gas to gas companies or to natural gas 52132
companies within this state, but a producer engaged in supplying 52133
to one or more gas or natural gas companies, only such artificial 52134
gas as is manufactured by that producer as a by-product of some 52135
other process in which the producer is primarily engaged within 52136

this state is not thereby a gas company. All rates, rentals, 52137
tolls, schedules, charges of any kind, or agreements between any 52138
gas company and any other gas company or any natural gas company 52139
providing for the supplying of artificial gas and for compensation 52140
for the same are subject to the jurisdiction of the public 52141
utilities commission. 52142

~~(5)~~(E) A natural gas company, when engaged in the business of 52143
supplying natural gas for lighting, power, or heating purposes to 52144
consumers within this state. Notwithstanding the above, neither 52145
the delivery nor sale of Ohio-produced natural gas by a producer 52146
or gatherer under a public utilities commission-ordered exemption, 52147
adopted before, as to producers, or after, as to producers or 52148
gatherers, January 1, 1996, or the delivery or sale of 52149
Ohio-produced natural gas by a producer or gatherer of 52150
Ohio-produced natural gas, either to a lessor under an oil and gas 52151
lease of the land on which the producer's drilling unit is 52152
located, or the grantor incident to a right-of-way or easement to 52153
the producer or gatherer, shall cause the producer or gatherer to 52154
be a natural gas company for the purposes of this section. 52155

All rates, rentals, tolls, schedules, charges of any kind, or 52156
agreements between a natural gas company and other natural gas 52157
companies or gas companies providing for the supply of natural gas 52158
and for compensation for the same are subject to the jurisdiction 52159
of the public utilities commission. The commission, upon 52160
application made to it, may relieve any producer or gatherer of 52161
natural gas, defined in this section as a gas company or a natural 52162
gas company, of compliance with the obligations imposed by this 52163
chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. 52164
of the Revised Code, so long as the producer or gatherer is not 52165
affiliated with or under the control of a gas company or a natural 52166
gas company engaged in the transportation or distribution of 52167
natural gas, or so long as the producer or gatherer does not 52168

engage in the distribution of natural gas to consumers. 52169

Nothing in division ~~(A)~~~~(5)~~(E) of this section limits the 52170
authority of the commission to enforce sections 4905.90 to 4905.96 52171
of the Revised Code. 52172

~~(6)~~(F) A pipe-line company, when engaged in the business of 52173
transporting natural gas, oil, or coal or its derivatives through 52174
pipes or tubing, either wholly or partly within this state; 52175

~~(7)~~(G) A water-works company, when engaged in the business of 52176
supplying water through pipes or tubing, or in a similar manner, 52177
to consumers within this state; 52178

~~(8)~~(H) A heating or cooling company, when engaged in the 52179
business of supplying water, steam, or air through pipes or tubing 52180
to consumers within this state for heating or cooling purposes; 52181

~~(9)~~(I) A messenger company, when engaged in the business of 52182
supplying messengers for any purpose; 52183

~~(10)~~(J) A street railway company, when engaged in the 52184
business of operating as a common carrier, a railway, wholly or 52185
partly within this state, with one or more tracks upon, along, 52186
above, or below any public road, street, alleyway, or ground, 52187
within any municipal corporation, operated by any motive power 52188
other than steam and not a part of an interurban railroad, whether 52189
the railway is termed street, inclined-plane, elevated, or 52190
underground railway; 52191

~~(11)~~(K) A suburban railroad company, when engaged in the 52192
business of operating as a common carrier, whether wholly or 52193
partially within this state, a part of a street railway 52194
constructed or extended beyond the limits of a municipal 52195
corporation, and not a part of an interurban railroad; 52196

~~(12)~~(L) An interurban railroad company, when engaged in the 52197
business of operating a railroad, wholly or partially within this 52198

state, with one or more tracks from one municipal corporation or 52199
point in this state to another municipal corporation or point in 52200
this state, whether constructed upon the public highways or upon 52201
private rights-of-way, outside of municipal corporations, using 52202
electricity or other motive power than steam power for the 52203
transportation of passengers, packages, express matter, United 52204
States mail, baggage, and freight. Such an interurban railroad 52205
company is included in the term "railroad" as used in section 52206
4907.02 of the Revised Code. 52207

~~(13)~~(M) A sewage disposal system company, when engaged in the 52208
business of sewage disposal services through pipes or tubing, and 52209
treatment works, or in a similar manner, within this state. 52210

~~(B) "Motor propelled vehicle" means any automobile,~~ 52211
~~automobile truck, motor bus, or any other self propelled vehicle~~ 52212
~~not operated or driven upon fixed rails or tracks.~~ 52213

Sec. 4905.05. The jurisdiction, supervision, powers, and 52214
duties of the public utilities commission extend to every public 52215
utility and railroad, the plant or property of which lies wholly 52216
within this state and when the property of a public utility or 52217
railroad lies partly within and partly without this state to that 52218
part of such plant or property which lies within this state; to 52219
the persons or companies owning, leasing, or operating such public 52220
utilities and railroads; to the records and accounts of the 52221
business thereof done within this state; and to the records and 52222
accounts of any companies which are part of an electric utility 52223
holding company system exempt under section 3(a)(1) or (2) of the 52224
"Public Utility Holding Company Act of 1935," 49 Stat. 803, 15 52225
U.S.C. 79c, and the rules and regulations promulgated thereunder, 52226
insofar as such records and accounts may in any way affect or 52227
relate to the costs associated with the provision of electric 52228
utility service by any public utility operating in this state and 52229

part of such holding company system. 52230

Nothing in this section, or section 4905.06 or 4905.46 of the 52231
Revised Code pertaining to regulation of holding companies, grants 52232
the public utilities commission authority to regulate a holding 52233
company or its subsidiaries which are organized under the laws of 52234
another state, render no public utility service in the state of 52235
Ohio, and are regulated as a public utility by the public 52236
utilities commission of another state or primarily by a federal 52237
regulatory commission, nor do these grants of authority apply to 52238
public utilities that are excepted from the definition of "public 52239
utility" under divisions (A)(1) to ~~(C)~~(3) of section 4905.02 of 52240
the Revised Code. 52241

Sec. 4905.06. The public utilities commission has general 52242
supervision over all public utilities within its jurisdiction as 52243
defined in section 4905.05 of the Revised Code, and may examine 52244
such public utilities and keep informed as to their general 52245
condition, capitalization, and franchises, and as to the manner in 52246
which their properties are leased, operated, managed, and 52247
conducted with respect to the adequacy or accommodation afforded 52248
by their service, the safety and security of the public and their 52249
employees, and their compliance with all laws, orders of the 52250
commission, franchises, and charter requirements. The commission 52251
has general supervision over all other companies referred to in 52252
section 4905.05 of the Revised Code to the extent of its 52253
jurisdiction as defined in that section, and may examine such 52254
companies and keep informed as to their general condition and 52255
capitalization, and as to the manner in which their properties are 52256
leased, operated, managed, and conducted with respect to the 52257
adequacy or accommodation afforded by their service, and their 52258
compliance with all laws and orders of the commission, insofar as 52259
any of such matters may relate to the costs associated with the 52260
provision of electric utility service by public utilities in this 52261

state which are affiliated or associated with such companies. The 52262
commission, through the public utilities commissioners or 52263
inspectors or employees of the commission authorized by it, may 52264
enter in or upon, for purposes of inspection, any property, 52265
equipment, building, plant, factory, office, apparatus, machinery, 52266
device, and lines of any public utility. The power to inspect 52267
includes the power to prescribe any rule or order that the 52268
commission finds necessary for protection of the public safety. In 52269
order to assist the commission in the performance of its duties 52270
under this chapter, authorized employees of the motor carrier 52271
enforcement unit, created under section 5503.34 of the Revised 52272
Code in the division of state highway patrol, of the department of 52273
public safety may enter in or upon, for inspection purposes, any 52274
motor vehicle of any ~~motor transportation company or private~~ motor 52275
carrier ~~as defined in section 4923.02 of the Revised Code.~~ 52276

In order to inspect motor vehicles owned or operated by a 52277
motor ~~transportation company~~ carrier engaged in the transportation 52278
of persons, authorized employees of the motor carrier enforcement 52279
unit, division of state highway patrol, of the department of 52280
public safety may enter in or upon any property of any motor 52281
~~transportation company, as defined in section 4921.02 of the~~ 52282
~~Revised Code,~~ carrier engaged in the intrastate transportation of 52283
persons. 52284

Sec. 4905.402. (A) As used in this section: 52285

(1) "Control" means the possession of the power to direct the 52286
management and policies of a domestic telephone company or a 52287
holding company of a domestic telephone company, or the management 52288
and policies of a domestic electric utility or a holding company 52289
of a domestic electric utility, through the ownership of voting 52290
securities, by contract, or otherwise, but does not include the 52291
power that results from holding an official position or the 52292

possession of corporate office with the domestic company or 52293
utility or the holding company. Control is presumed to exist if 52294
any person, directly or indirectly, owns, controls, holds the 52295
power to vote, or holds with the power to vote proxies that 52296
constitute, twenty per cent or more of the total voting power of 52297
the domestic company or utility or the holding company. 52298

(2) "Electric utility" has the same meaning as in section 52299
4928.07 of the Revised Code. 52300

(3) "Holding company" excludes any securities broker 52301
performing the usual and customary broker's function. 52302

(4) "Telephone company" means any company described in 52303
division (A)~~(1)~~ of section 4905.03 of the Revised Code that is a 52304
public utility under section 4905.02 of the Revised Code and 52305
provides basic local exchange service, as defined in section 52306
4927.01 of the Revised Code. 52307

(B) No person shall acquire control, directly or indirectly, 52308
of a domestic telephone company or a holding company controlling a 52309
domestic telephone company or of a domestic electric utility or a 52310
holding company controlling a domestic electric utility unless 52311
that person obtains the prior approval of the public utilities 52312
commission under this section. To obtain approval the person shall 52313
file an application with the commission demonstrating that the 52314
acquisition will promote public convenience and result in the 52315
provision of adequate service for a reasonable rate, rental, toll, 52316
or charge. The application shall contain such information as the 52317
commission may require. If the commission considers a hearing 52318
necessary, it may fix a time and place for hearing. If, after 52319
review of the application and after any necessary hearing, the 52320
commission is satisfied that approval of the application will 52321
promote public convenience and result in the provision of adequate 52322
service for a reasonable rate, rental, toll, or charge, the 52323
commission shall approve the application and make such order as it 52324

considers proper. If the commission fails to issue an order within 52325
thirty days of the filing of the application, or within twenty 52326
days of the conclusion of a hearing, if one is held, the 52327
application shall be deemed approved by operation of law. 52328

(C) No domestic telephone company shall merge with another 52329
domestic telephone company unless the merging companies obtain the 52330
prior approval of the commission. An application seeking such 52331
approval shall be filed, processed, and decided in the manner 52332
provided for an application under division (B) of this section. 52333

(D) The commission shall adopt such rules as it finds 52334
necessary to carry out the provisions of this section. 52335

(E) If it appears to the commission or to any person that may 52336
be adversely affected that any person is engaged in or about to 52337
engage in any acts or practices that would violate division (B) or 52338
(C) of this section or any provision of a rule adopted under this 52339
section, the attorney general, when directed to do so by the 52340
commission, or the person claiming to be adversely affected may 52341
bring an action in any court of common pleas that has jurisdiction 52342
and venue to enjoin such acts or practices and enforce compliance. 52343
Upon a proper showing, the court shall grant, without bond, a 52344
restraining order or temporary or permanent injunction. 52345

(F) The courts of this state have jurisdiction over every 52346
person not a resident of or domiciled or authorized to do business 52347
in this state that files, or is prohibited from acting without 52348
first filing, an application under division (B) or (C) of this 52349
section, and over all actions involving such person arising out of 52350
violations of any provision of this section or of a rule adopted 52351
under this section. The secretary of state shall be the agent for 52352
service of process for any such person in any action, suit, or 52353
proceeding arising out of such violations. Copies of all such 52354
lawful process shall be served upon the secretary of state and 52355
transmitted by certified mail, with return receipt requested, by 52356

the secretary of state to such person at the person's last known address. 52357
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Sec. 4905.54. Every public utility or railroad and every officer of a public utility or railroad shall comply with every order, direction, and requirement of the public utilities commission made under authority of this chapter and Chapters 4901., 4903., 4907., and 4909., ~~4921., and 4923.~~ of the Revised Code, so long as they remain in force. Except as otherwise specifically provided in ~~sections 4905.83,~~ section 4905.95, ~~4919.99, 4921.99, and 4923.99~~ of the Revised Code, the public utilities commission may assess a forfeiture of not more than ten thousand dollars for each violation or failure against a public utility or railroad that violates a provision of those chapters or that after due notice fails to comply with an order, direction, or requirement of the commission that was officially promulgated. Each day's continuance of the violation or failure is a separate offense. All forfeitures collected under this section shall be credited to the general revenue fund. 52359
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Sec. 4905.57. Except as otherwise specifically provided in sections ~~4905.83,~~ 4905.96, ~~4919.99, 4921.99,~~ and 4923.99 of the Revised Code, actions to recover forfeitures provided for in this chapter and Chapters 4901., 4903., 4907., 4909., ~~4921.,~~ and 4923. of the Revised Code shall be prosecuted in the name of the state and may be brought in the court of common pleas of any county in which the public utility ~~or,~~ railroad, or motor carrier is located. Such actions shall be commenced and prosecuted by the attorney general when ~~he~~ the attorney general is directed to do so by the public utilities commission. Moneys recovered by such actions shall be deposited in the state treasury to the credit of the general revenue fund. 52375
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Sec. 4905.58. All prosecutions against a railroad or an 52387
officer, agent, or employee thereof, under Chapters 4901., 4903., 52388
4905., 4907., and 4909., 4921., and 4923. and other sections of 52389
the Revised Code for penalties involving imprisonment shall be by 52390
indictment. 52391

Sec. 4905.80. The policy of this state is to: 52392

(A) Regulate transportation by motor carriers so as to 52393
recognize and preserve the inherent advantages of, and foster safe 52394
conditions in, that transportation and among those carriers in the 52395
public interest; 52396

(B) Promote safe and secure service by motor carriers, 52397
without unjust discriminations, undue preferences or advantages, 52398
and unfair or destructive competitive practices; 52399

(C) Improve the relations between, and coordinate 52400
transportation by and regulation of, motor carriers and other 52401
carriers; 52402

(D) Develop and preserve a highway transportation system 52403
properly adapted to the needs of commerce and the state; 52404

(E) Cooperate with the federal government and the several 52405
states, and the authorized officials thereof, and with any 52406
organization of motor carriers in the administration and 52407
enforcement of this chapter and Chapters 4901., 4903., 4907., 52408
4909., 4921., and 4923. of the Revised Code. 52409

Sec. 4905.81. The public utilities commission shall: 52410

(A) Supervise and regulate each motor carrier; 52411

(B) Regulate the safety of operation of each motor carrier; 52412

(C) Adopt reasonable safety rules applicable to the highway 52413
transportation of persons or property in interstate and intrastate 52414

commerce by motor carriers; 52415

(D) Adopt safety rules applicable to the transportation and offering for transportation of hazardous materials in interstate and intrastate commerce by motor carriers. The rules shall not be incompatible with the requirements of the United States department of transportation. 52416
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(E) Require the filing of reports and other data by motor carriers; 52421
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(F) Adopt reasonable rules for the administration and enforcement of this chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. of the Revised Code applying to each motor carrier in this state; 52423
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(G) Supervise and regulate motor carriers in all other matters affecting the relationship between those carriers and the public to the exclusion of all local authorities, except as provided in this section. The commission, in the exercise of the jurisdiction conferred upon it by this chapter and Chapters 4901., 4903., 4907., 4909., 4921., and 4923. of the Revised Code, may adopt rules affecting motor carriers, notwithstanding the provisions of any ordinance, resolution, license, or permit enacted, adopted, or granted by any township, municipal corporation, municipal corporation and county, or county. In case of conflict between any such ordinance, resolution, license, or permit, the order or rule of the commission shall prevail. Local subdivisions may adopt reasonable local police rules within their respective boundaries not inconsistent with those chapters and rules adopted under them. 52427
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The commission has jurisdiction to receive, hear, and determine as a question of fact, upon complaint of any party or upon its own motion, and upon not less than fifteen days' notice of the time and place of the hearing and the matter to be heard, 52442
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whether any corporation, company, association, joint-stock 52446
association, person, firm, or copartnership, or their lessees, 52447
legal or personal representatives, trustees, or receivers or 52448
trustees appointed by any court, is engaged as a motor carrier. 52449
The finding of the commission on such a question is a final order 52450
that may be reviewed as provided in section 4923.15 of the Revised 52451
Code. 52452

Sec. 4905.84. (A) As used in this section: 52453

(1) "Telecommunications relay service" means intrastate 52454
transmission services that provide the ability for an individual 52455
who has a hearing or speech impairment to engage in a 52456
communication by wire or radio with a hearing individual in a 52457
manner that is functionally equivalent to the ability of an 52458
individual who does not have a hearing or speech impairment to 52459
communicate using voice communication services by wire or radio. 52460
"Telecommunications relay service" includes services that enable 52461
two-way communication between an individual who uses a 52462
telecommunications device for the deaf or other nonvoice terminal 52463
device and an individual who does not use such a device. 52464

(2) "TRS provider" means an entity selected by the public 52465
utilities commission as the provider of telecommunications relay 52466
service for this state as part of the commission's intrastate 52467
telecommunications relay service program certified pursuant to 52468
federal law. 52469

(B) For the sole purpose of funding telecommunications relay 52470
service, the commission shall, not earlier than January 1, 2009, 52471
impose on and collect from each service provider that is required 52472
under federal law to provide its customers access to 52473
telecommunications relay service an annual assessment to pay for 52474
costs incurred by the TRS provider for providing such service in 52475
Ohio. The commission shall determine the appropriate service 52476

providers to be assessed the telecommunications relay service 52477
costs, including telephone companies as defined in division (A)~~(1)~~ 52478
of section 4905.03 of the Revised Code, commercial mobile radio 52479
service providers, and providers of advanced services or internet 52480
protocol-enabled services that are competitive with or 52481
functionally equivalent to basic local exchange service as defined 52482
in section 4927.01 of the Revised Code. 52483

(C) The assessment shall be allocated proportionately among 52484
the appropriate service providers using a competitively neutral 52485
formula established by the commission based on the number of 52486
retail intrastate customer access lines or their equivalent. The 52487
commission shall annually reconcile the funds collected with the 52488
actual costs of providing telecommunications relay service when it 52489
issues the assessment and shall either proportionately charge the 52490
service providers for any amounts not sufficient to cover the 52491
actual costs or proportionately credit amounts collected in excess 52492
of the actual costs. The total amount assessed from all service 52493
providers shall not exceed the total telecommunications relay 52494
service costs. 52495

Each service provider that pays the assessment shall be 52496
permitted to recover the cost of the assessment. The method of 52497
recovery may include, but is not limited to, a customer billing 52498
surcharge. 52499

The commission shall deposit the money collected in the 52500
telecommunications relay service fund, which is hereby created in 52501
the state treasury, and shall use the money in that fund solely to 52502
compensate the TRS provider. 52503

(D) The commission shall take such measures as it considers 52504
necessary to protect the confidentiality of information provided 52505
to the commission pursuant to this section by service providers 52506
required to pay the assessment. 52507

(E) The commission may assess a forfeiture of not more than 52508
one thousand dollars on any service provider failing to comply 52509
with this section. Each day's continuance of such failure is a 52510
separate offense. The forfeiture shall be recovered in accordance 52511
with sections 4905.55 to 4905.60 of the Revised Code. 52512

(F) The jurisdiction and authority granted to the commission 52513
by this section is limited to the administration and enforcement 52514
of this section. The commission may adopt such rules as it finds 52515
necessary to carry out this section. The commission shall adopt 52516
rules under section 111.15 of the Revised Code to establish the 52517
assessment amounts and procedures. 52518

Sec. 4905.90. As used in sections 4905.90 to 4905.96 of the 52519
Revised Code: 52520

(A) "Contiguous property" includes, but is not limited to, a 52521
manufactured home park as defined in section ~~3733.01~~ 4781.01 of 52522
the Revised Code; a public or publicly subsidized housing project; 52523
an apartment complex; a condominium complex; a college or 52524
university; an office complex; a shopping center; a hotel; an 52525
industrial park; and a race track. 52526

(B) "Gas" means natural gas, flammable gas, or gas which is 52527
toxic or corrosive. 52528

(C) "Gathering lines" and the "gathering of gas" have the 52529
same meaning as in the Natural Gas Pipeline Safety Act and the 52530
rules adopted by the United States department of transportation 52531
pursuant to the Natural Gas Pipeline Safety Act, including 49 52532
C.F.R. part 192, as amended. 52533

(D) "Intrastate pipe-line transportation" has the same 52534
meaning as in 82 Stat. 720 (1968), 49 U.S.C.A. App. 1671, as 52535
amended, but excludes the gathering of gas exempted by the Natural 52536
Gas Pipeline Safety Act. 52537

(E) "Master-meter system" means a pipe-line system that 52538
distributes gas within a contiguous property for which the system 52539
operator purchases gas for resale to consumers, including tenants. 52540
Such pipe-line system supplies consumers who purchase the gas 52541
directly through a meter, or by paying rent, or by other means. 52542
The term includes a master-meter system as defined in 49 C.F.R. 52543
191.3, as amended. The term excludes a pipeline within a 52544
manufactured home, mobile home, or a building. 52545

(F) "Natural Gas Pipeline Safety Act" means the "Natural Gas 52546
Pipeline Safety Act of 1968," 82 Stat. 720, 49 U.S.C.A. App. 1671 52547
et seq., as amended. 52548

(G) "Operator" means any of the following: 52549

(1) A gas company or natural gas company as defined in 52550
section 4905.03 of the Revised Code, except that division 52551
~~(A)(5)~~(E) of that section does not authorize the public utilities 52552
commission to relieve any producer of gas, as a gas company or 52553
natural gas company, of compliance with sections 4905.90 to 52554
4905.96 of the Revised Code or the pipe-line safety code created 52555
under section 4905.91 of the Revised Code; 52556

(2) A pipe-line company, as defined in section 4905.03 of the 52557
Revised Code, when engaged in the business of transporting gas by 52558
pipeline; 52559

(3) A public utility that is excepted from the definition of 52560
"public utility" under division ~~(B)(A)(2)~~ or ~~(C)(3)~~ of section 52561
4905.02 of the Revised Code, when engaged in supplying or 52562
transporting gas by pipeline within this state; 52563

(4) Any person that owns, operates, manages, controls, or 52564
leases any of the following: 52565

(a) Intrastate pipe-line transportation facilities within 52566
this state; 52567

(b) Gas gathering lines within this state which are not exempted by the Natural Gas Pipeline Safety Act; 52568
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(c) A master-meter system within this state. 52570

"Operator" does not include an ultimate consumer who owns a service line, as defined in 49 C.F.R. 192.3, as amended, on the real property of that ultimate consumer. 52571
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(H) "Operator of a master-meter system" means a person described under division ~~(F)~~(G)(4)(c) of this section. An operator of a master-meter system is not a public utility under section 4905.02 or a gas or natural gas company under section 4905.03 of the Revised Code. 52574
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(I) "Person" means: 52579

(1) In addition to those defined in division (C) of section 1.59 of the Revised Code, a joint venture or a municipal corporation; 52580
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(2) Any trustee, receiver, assignee, or personal representative of persons defined in division ~~(H)~~(I)(1) of this section. 52583
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(J) "Safety audit" means the public utilities commission's audit of the premises, pipe-line facilities, and the records, maps, and other relevant documents of a master-meter system to determine the operator's compliance with sections 4905.90 to 4905.96 of the Revised Code and the pipe-line safety code. 52586
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(K) "Safety inspection" means any inspection, survey, or testing of a master-meter system which is authorized or required by sections 4905.90 to 4905.96 of the Revised Code and the pipe-line safety code. The term includes, but is not limited to, leak surveys, inspection of regulators and critical valves, and monitoring of cathodic protection systems, where applicable. 52591
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(L) "Safety-related condition" means any safety-related 52597

condition defined in 49 C.F.R. 191.23, as amended.	52598
(M) "Total Mcfs of gas it supplied or delivered" means the sum of the following volumes of gas that an operator supplied or delivered, measured in units per one thousand cubic feet:	52599
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	52601
(1) Residential sales;	52602
(2) Commercial and industrial sales;	52603
(3) Other sales to public authorities;	52604
(4) Interdepartmental sales;	52605
(5) Sales for resale;	52606
(6) Transportation of gas.	52607
Sec. 4907.01. As used in sections 4907.01 to 4907.63 of the Revised Code:	52608
	52609
(A) "Public utility" has the same meaning as in section 4905.02 of the Revised Code.	52610
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(B) "Telephone company," "street railway company," and "interurban railroad company" have the same meanings as in section 4905.03 of the Revised Code.	52612
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	52614
(C) "Railroad" has the same meaning as in section 4907.02 of the Revised Code.	52615
	52616
(D) "Public highway" has the same meaning as in sections 4905.03 and 4921.02 <u>section 4921.01</u> of the Revised Code.	52617
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Sec. 4907.02. As used in Chapters 4901., 4903., 4905., 4907., 4909., 4921., 4923., and 4959. of the Revised Code, "railroad" includes any corporation, company, individual, or association of individuals, or its lessees, trustees, or receivers appointed by a court, which owns, operates, manages, or controls a railroad or part of a railroad as a common carrier in this state, or which owns, operates, manages, or controls any cars or other equipment	52619
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used on such a railroad, or which owns, operates, manages, or 52626
controls any bridges, terminals, union depots, sidetracks, docks, 52627
wharves, or storage elevators used in connection with such a 52628
railroad, whether owned by such railroad or otherwise, and means 52629
and includes express companies, water transportation companies, 52630
freight-line companies, sleeping car companies, and interurban 52631
railroad companies, and all persons and associations of persons, 52632
whether incorporated or not, operating such agencies for public 52633
use in the conveyance of persons or property within this state. 52634
All duties required of, and penalties imposed upon, a railroad or 52635
an officer or agent thereof insofar as they are applicable, are 52636
required and imposed upon express companies, water transportation 52637
companies, and interurban railroad companies, and upon their 52638
officers and agents. 52639

The public utilities commission has the power of supervision 52640
and control of express companies, water transportation companies, 52641
and interurban railroad companies to the same extent as railroads. 52642

Sec. 4907.04. Chapters 4901., 4903., 4905., 4907., and 4909. ~~7~~ 52643
~~4921., 4923., and 4925.~~ of the Revised Code do not apply to street 52644
and electric railways engaged solely in the transportation of 52645
passengers within the limits of cities, or to other private 52646
railroads not doing business as common carriers. 52647

Sec. 4907.08. The public utilities commission shall inquire 52648
into any neglect or violation of the laws of this state by a 52649
railroad doing business in this state, by its officers, agents, or 52650
employees, or by any person operating a railroad. The commission 52651
shall enforce Chapters 4901., 4903., 4905., 4907., 4909., ~~4921.,~~ 52652
~~4923.,~~ and 4959. of the Revised Code, as well as all other laws 52653
relating to railroads, and report violations thereof to the 52654
attorney general. 52655

If, upon complaint or otherwise, the commission has reason to believe that a railroad or any officer, agent, or employee of a railroad has violated or is violating any law of this state, or if it has reason to believe that differences have arisen between citizens of the state and any railroad operating as a common carrier within this state, it shall examine into the matter.

Sec. 4907.19. The public utilities commission shall cause blank forms to be prepared suitable for the purposes designated in Chapters 4901., 4903., 4905., 4907., and 4909., ~~4921., 4923., and 4925.~~ of the Revised Code which shall conform as nearly as practicable to the forms prescribed by the interstate commerce commission, and, when necessary, furnish such blank forms to each railroad.

Sec. 4907.28. No railroad shall charge, demand, collect, or receive a greater or less compensation for the transportation of passengers or property, or for any service in connection therewith, than is specified in the printed schedules referred to in sections 4907.25 to 4907.27, ~~inclusive,~~ of the Revised Code, including schedules of joint rates, as being then in force. The rates, fares, and charges named in such schedules shall be the lawful rates, fares, and charges until they are changed as provided in Chapters 4901., 4903., 4905., 4907., and 4909., ~~4921., 4923., and 4925.~~ of the Revised Code.

Sec. 4907.35. If a railroad, or an agent or officer of a railroad, by special rate, rebate, drawback, or by means of false billing, false classification, false weighing, or other device, charges, demands, collects, or receives, either directly or indirectly, from any person, firm, or corporation, a greater or less compensation for service rendered or to be rendered by such railroad for the transportation of persons or property or any

service in connection therewith, than that prescribed in the 52686
published tariffs then in force, or established as provided in 52687
Chapters 4901., 4903., 4905., 4907., and 4909., ~~4921., 4923., and~~ 52688
~~4925.~~ of the Revised Code, or a greater or less compensation than 52689
it charges, demands, collects, or receives from any other person, 52690
firm, or corporation for a like and contemporaneous service in the 52691
transportation of a like kind of traffic, under substantially 52692
similar circumstances and conditions, the railroad is guilty of 52693
unjust discrimination, which is hereby prohibited. Upon conviction 52694
of unjust discrimination, such railroad shall forfeit and pay into 52695
the state treasury not less than one hundred nor more than five 52696
thousand dollars for each offense. 52697

No agent or officer of a railroad shall violate this section. 52698

Sec. 4907.37. No common carrier subject to Chapters 4901., 52699
4903., 4905., 4907., and 4909., ~~4921., 4923., and 4925.~~ of the 52700
Revised Code shall make or give undue or unreasonable preference 52701
or advantage to a particular person, company, firm, corporation, 52702
or locality, or to any particular description of traffic, or 52703
subject any particular person, company, firm, corporation, or 52704
locality, or any particular description of traffic, to any undue 52705
or unreasonable prejudice or disadvantage in any respect. 52706

Sec. 4907.43. When the tracks of a railroad and the tracks of 52707
an interurban or suburban railway cross, connect, or intersect, 52708
and such tracks are of the same gauge, the companies owning such 52709
railroads may connect such tracks so as to admit the passage of 52710
cars from one to the other with facility. 52711

If any such railroads fail to make such connection, upon 52712
complaint of any party authorized by Chapters 4901., 4903., 4905., 52713
4907., and 4909., ~~4921., 4923., and 4925.~~ of the Revised Code to 52714
file complaint, the public utilities commission shall proceed to 52715

hear and determine the same in a manner provided for making 52716
investigations upon complaint. 52717

If upon such hearing the commission finds that it is 52718
practicable and reasonably necessary to ~~accomodate~~ accommodate the 52719
public, to connect such tracks and that when so connected it will 52720
be practicable to transport cars over such railroad without 52721
endangering the equipment, tracks, or appliances of either 52722
company, the commission shall make an order requiring such 52723
railroads to make connection. Such order shall describe the terms 52724
and conditions and shall apportion the cost of making such 52725
connection between the railroads. 52726

When such connection is made, the railroads parties to it, 52727
according to their respective powers, shall afford all reasonable 52728
and proper facilities for the interchange of traffic between their 52729
respective lines for forwarding and delivering passengers and 52730
property, and without unreasonable delay or discrimination shall 52731
transfer, switch, and deliver freight or passenger cars destine to 52732
a point on its own or connecting lines. Precedence may be given to 52733
livestock and perishable freight over other freight. Whenever a 52734
derailing device is required at the intersection of any railroads 52735
mentioned in this section, it shall be installed, maintained, and 52736
operated as required by the commission, which may prescribe the 52737
necessary rules and regulations for such operation, and designate 52738
the companies that shall be responsible for the operation of such 52739
derailing device. 52740

Sec. 4907.49. When two or more railroads cross a public 52741
highway or street at a dangerous crossing, the expenses incurred 52742
in the erection and maintenance of gates, bells, or other devices, 52743
and of necessary gatekeepers or ~~flagmen~~ flaggers, and apportioned 52744
by the public utilities commission as railroad expense, shall be 52745
shared equally by the railroads. 52746

Chapters 4901., 4903., 4905., 4907., and 4909., ~~4921., and~~ 52747
~~4923.~~ of the Revised Code do not prevent the use of automatic 52748
bells or other mechanical devices by a railroad at a public 52749
crossing not declared dangerous by the public utilities 52750
commission, nor do they prevent state, county, township, or 52751
municipal officials from entering into an agreement with a 52752
railroad to pay all or part of the expense of erecting a warning 52753
device. Any funds levied and made available for highways or street 52754
purposes may be used to pay the public share of the cost under 52755
such an agreement. If a gate is erected or a ~~flagman~~ flagger is 52756
stationed and maintained by a railroad, either alone or pursuant 52757
to such an agreement, the gate or ~~flagman~~ flagger shall not be 52758
abandoned nor an automatic bell or other mechanical device 52759
substituted for the gate or ~~flagman~~ flagger, unless the commission 52760
consents to the abandonment or substitution. 52761

Sec. 4907.57. All claims, charges, or demands against a 52762
railroad for loss of or damage to property occurring while in the 52763
custody of such railroad and unreasonable delay in transportation 52764
and delivery, for overcharges upon a shipment, or for any other 52765
service in violation of Chapters 4901., 4903., 4905., 4907., and 52766
4909., ~~4921., 4923., and 4925.~~ of the Revised Code, if not paid 52767
within sixty days from the date of the filing thereof with such 52768
railroad, may be submitted to the public utilities commission by a 52769
formal complaint. Such complaint shall be made upon blank forms 52770
which the commission shall provide upon demand of the claimant. 52771

Such complaint shall be verified as petitions in civil 52772
actions and may be accompanied by the sworn statements of any 52773
witnesses who have knowledge of any fact material to the inquiry. 52774
Upon the filing of such complaint the commission shall forthwith 52775
cite the railroad to answer the complaint, and the citation shall 52776
be accompanied with a brief statement of the claim. The answer of 52777
the railroad shall be filed within three weeks from the service of 52778

the citation and shall be verified as answers in civil cases, and 52779
may be accompanied with the affidavits of any witnesses having 52780
knowledge of facts material to the inquiry. 52781

The burden of proof shall be upon the railroad to show that 52782
loss or damage to property was not due to its negligence. The 52783
railroad to which property is delivered for shipment shall prima 52784
facie be liable for loss or damage occurring to such property in 52785
transit notwithstanding such property may be delivered to other 52786
railroads before reaching its destination. The claim referred to 52787
in this section for loss of or damage to property may be made to 52788
any carrier over whose lines the lost or damaged property was 52789
consigned, and such claimant may at ~~his~~ the claimant's option join 52790
all of such railroads as parties defendant in ~~his~~ the complaint 52791
before said commission. The railroad shall furnish the claimant 52792
with a copy of its answer and affidavits, and within two weeks 52793
from the filing of such answers the claimant may file ~~his~~ a reply, 52794
with affidavits in support thereof, verified as replies in civil 52795
cases. At the expiration of said period of two weeks the 52796
commission shall proceed summarily to examine the complaint, 52797
answer, reply, and affidavits, and shall determine the existence 52798
and validity of the claim presented. If the commission finds in 52799
favor of the claimant it shall certify its findings to the clerk 52800
of the court of common pleas of the county in which the claimant 52801
resides or where the railroad or any of its offices is maintained. 52802

Sec. 4907.59. Upon request of the public utilities 52803
commission, the attorney general or the prosecuting attorney of 52804
the proper county shall aid in an investigation, prosecution, 52805
hearing, or trial had under Chapters 4901., 4903., 4905., 4907., 52806
and 4909., ~~4921., 4923., and 4925.~~ of the Revised Code, and shall 52807
institute and prosecute necessary actions or proceedings for the 52808
enforcement of such chapters and of other laws of this state 52809
relating to railroads, and for the punishment of all violations of 52810

such chapters and such other laws. 52811

Sec. 4907.60. If a railroad fails to perform a duty enjoined 52812
upon it by Chapter 4901., 4903., 4905., 4907., 4909., ~~4921.7~~ 52813
~~4923.7~~ or 4959. of the Revised Code, or does any act prohibited by 52814
any of those chapters, for which failure or act no penalty or 52815
forfeiture has been provided by law, or fails to obey a lawful 52816
requirement or order made by the public utilities commission or 52817
order of any court upon application of the commission, the 52818
railroad, except as otherwise specifically provided in ~~sections~~ 52819
~~4905.83,~~ section 4905.95, ~~4919.99,~~ ~~4921.99,~~ and ~~4923.99~~ of the 52820
Revised Code, shall forfeit into the state treasury not less than 52821
one hundred nor more than ten thousand dollars for each violation 52822
or failure. In construing and enforcing this section, the act, 52823
omission, or failure of any officer, agent, or other person acting 52824
for or employed by a railroad, while acting within the scope of 52825
the officer's, agent's, or other person's employment, is the act, 52826
omission, or failure of the railroad. 52827

Sec. 4907.61. Except as otherwise specifically provided in 52828
sections ~~4905.83,~~ 4905.96, ~~4919.99,~~ ~~4921.99,~~ and 4923.99 of the 52829
Revised Code, when the attorney general prosecutes an action for 52830
the recovery of a forfeiture provided for in Chapter 4901., 4903., 52831
4905., 4907., 4909., 4921., 4923., or 4959. of the Revised Code, 52832
the attorney general may bring the action in the court of common 52833
pleas of Franklin county or of any county having jurisdiction of 52834
the defendant. 52835

Sec. 4907.62. If a railroad does, causes, or permits anything 52836
prohibited by Chapters 4901., 4903., 4905., 4907., and 4909.7 52837
~~4921., 4923., and 4925.~~ of the Revised Code to be done, or omits 52838
doing anything required to be done by such chapters, such railroad 52839
is liable to the person, firm, or corporation injured thereby in 52840

treble the amount of damages sustained in consequence of such 52841
violation or omission. A recovery provided by this section shall 52842
not affect a recovery by the state of the penalty prescribed for 52843
such violation. 52844

Sec. 4909.01. As used in this chapter: 52845

(A) "Public utility" has the same meaning as in section 52846
4905.02 of the Revised Code. 52847

(B) "Electric light company," "gas company," "natural gas 52848
company," "pipeline company," "water-works company," "sewage 52849
disposal system company," and "street railway company" have the 52850
same meanings as in section 4905.03 of the Revised Code. 52851

(C) "Railroad" has the same meaning as in section 4907.02 of 52852
the Revised Code. 52853

(D) "~~Motor transportation company~~ For-hire motor carrier" has 52854
the same meaning as in ~~sections 4905.03 and 4921.02~~ section 52855
4921.01 of the Revised Code. 52856

Sec. 4909.02. All regulations, practices, and service of 52857
railroad companies prescribed by the public utilities commission 52858
shall be in force and be prima-facie reasonable, unless suspended 52859
or found otherwise in an action brought for that purpose pursuant 52860
to Chapters 4901., 4903., 4905., 4907., and 4909., ~~4921., and~~ 52861
~~4923.~~ of the Revised Code, or until changed or modified by the 52862
commission. 52863

Sec. 4909.03. All rates, fares, charges, classifications, and 52864
joint rates of railroad companies fixed by the public utilities 52865
commission shall be in force and be prima-facie lawful for two 52866
years from the day they take effect, or until changed or modified 52867
by the commission or by an order of a competent court in an action 52868
under Chapters 4901., 4903., 4905., 4907., and 4909., ~~4921., and~~ 52869

~~4923.~~ of the Revised Code. 52870

Sec. 4909.17. No rate, joint rate, toll, classification, 52871
charge, or rental, no change in any rate, joint rate, toll, 52872
classification, charge, or rental, and no regulation or practice 52873
affecting any rate, joint rate, toll, classification, charge, or 52874
rental of a public utility shall become effective until the public 52875
utilities commission, by order, determines it to be just and 52876
reasonable, except as provided in this section and sections 52877
4909.18, 4909.19, and 4909.191 of the Revised Code. Such sections 52878
do not apply to any rate, joint rate, toll, classification, 52879
charge, or rental, or any regulation or practice affecting the 52880
same, of railroads, street and electric railways, for-hire motor 52881
~~transportation companies~~ carriers, and pipe line companies. 52882

Sec. 4909.22. When passengers or property are transported 52883
over two or more connecting railroads between points in this 52884
state, and the railroad companies have made joint rates for the 52885
transportation of such passengers or property, such rates and all 52886
charges in connection therewith shall be just and reasonable. 52887
Every unjust and unreasonable charge is prohibited. A less charge 52888
by each of such railroads for its proportion of such joint rates 52889
than is made locally between the same points on their respective 52890
lines is not for that reason a violation of Chapters 4901., 4903., 52891
4905., 4907., and 4909., ~~4921., 4923., and 4925.~~ of the Revised 52892
Code and does not render such railroads liable to any of the 52893
penalties in such chapters. 52894

Sec. 4909.24. Upon complaint of a person, firm, corporation, 52895
or association, of a mercantile, agricultural, or manufacturing 52896
society, or of a body politic or municipal organization, that any 52897
of the rates, fares, charges, or classifications, or any joint 52898
rates are in any respect unreasonable or unjustly discriminatory, 52899

or that any regulation or practice, affecting the transportation 52900
of persons or property, or any service in connection therewith, 52901
are in any respect unreasonable or unjustly discriminatory, or 52902
that any service is inadequate, the public utilities commission 52903
may notify the railroad complained of that complaint has been 52904
made, and ten days after such notice proceed to investigate such 52905
charges as provided in Chapters 4901., 4903., 4905., 4907., and 52906
4909., ~~4921., 4923., and 4925.~~ of the Revised Code. Before making 52907
such investigation, the commission shall give the railroad and the 52908
complainants ten days' notice of the time and place such matters 52909
will be considered and determined, and such parties are entitled 52910
to be heard and to have process to enforce the attendance of 52911
witnesses. 52912

A railroad may make complaint with like effect as though made 52913
by any person, firm, corporation, or association, ~~mercantile~~ 52914
mercantile, agricultural, or manufacturing society, body politic, 52915
or municipal organization. 52916

Sec. 4909.28. If, upon an investigation under Chapters 4901., 52917
4903., 4905., 4907., and 4909., ~~4921., 4923., and 4925.~~ of the 52918
Revised Code, the public utilities commission finds that any 52919
existing rate, fare, charge, or classification, any joint rate, or 52920
any regulation or practice affecting the transportation of persons 52921
or property, or service in connection therewith, is unreasonable 52922
or unjustly discriminatory, or that any service is inadequate, it 52923
shall determine and by order fix a reasonable rate, fare, charge, 52924
classification, joint rate, regulation, practice, or service to be 52925
imposed, observed, and followed in the future, in place of that so 52926
found to be unreasonable, unjustly discriminatory, or inadequate. 52927
A certified copy of each such order shall be delivered to an 52928
officer or station agent of the railroad affected, and such order 52929
shall of its own force take effect and become operative thirty 52930
days after service. 52931

All railroads to which such order applies shall make such 52932
changes in their schedules on file as are necessary to conform to 52933
such order, and no change shall thereafter be made by any railroad 52934
in any such rate, fare, or charge, or in any joint rate, without 52935
the approval of the commission. 52936

Sec. 4911.01. As used in this chapter: 52937

(A) "Public utility" means every one as defined in divisions 52938
(A)~~(1)~~, ~~(3)~~, ~~(4)~~, ~~(5)~~, ~~(6)~~, ~~(7)~~, ~~(8)~~, (C), (D), (E), (F), (G), 52939
(H), and ~~(13)~~(M) of section 4905.03 of the Revised Code, including 52940
all public utilities that operate their utilities not for profit, 52941
except the following: 52942

(1) Electric light companies that operate their utilities not 52943
for profit; 52944

(2) Public utilities, other than telephone companies, that 52945
are owned and operated exclusively by and solely for the 52946
utilities' customers; 52947

(3) Public utilities that are owned or operated by any 52948
municipal corporation; 52949

(4) Railroads as defined in sections 4907.02 and 4907.03 of 52950
the Revised Code. 52951

(B) "Residential consumer" means urban, suburban, and rural 52952
patrons of public utilities insofar as their needs for utility 52953
services are limited to their residence. 52954

Sec. 4921.01. As used in this chapter: 52955

(A) "Ambulance" has the same meaning as in section 4766.01 of 52956
the Revised Code. 52957

(B) "For-hire motor carrier" means a person engaged in the 52958
business of transporting persons or property by motor vehicle for 52959
compensation, except when engaged in any of the following in 52960

<u>intrastate commerce:</u>	52961
<u>(1) The transportation of persons in taxicabs in the usual taxicab service;</u>	52962
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<u>(2) The transportation of pupils in school busses operating to or from school sessions or school events;</u>	52964
	52965
<u>(3) The transportation of farm supplies to the farm or farm products from farm to market or to food fabricating plants;</u>	52966
	52967
<u>(4) The distribution of newspapers;</u>	52968
<u>(5) The transportation of crude petroleum incidental to gathering from wells and delivery to destination by pipe line;</u>	52969
	52970
<u>(6) The transportation of injured, ill, or deceased persons by hearse or ambulance;</u>	52971
	52972
<u>(7) The transportation of compost (a combination of manure and sand or shredded bark mulch) or shredded bark mulch;</u>	52973
	52974
<u>(8) The transportation of persons in a ridesharing arrangement when any fee charged each person so transported is in such amount as to recover only the person's share of the costs of operating the motor vehicle for such purpose.</u>	52975
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	52978
<u>"For-hire motor carrier" includes the carrier's agents, officers, and representatives, as well as employees responsible for hiring, supervising, training, assigning, or dispatching drivers and employees concerned with the installation, inspection, and maintenance of motor-vehicle equipment and accessories.</u>	52979
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<u>Divisions (B)(1) to (8) of this section shall not be construed to relieve a person from compliance with hazardous-material regulation under section 4921.15 of the Revised Code and division (H) of section 4921.19 of the Revised Code, or rules adopted thereunder, or from compliance with rules governing unified carrier registration adopted under section 4921.11 of the Revised Code.</u>	52984
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<u>(C) "Household goods" means personal effects and property</u>	52991
<u>used or to be used in a dwelling, excluding property moving from a</u>	52992
<u>factory or store.</u>	52993
<u>(D) "Interstate commerce" means trade, traffic, or</u>	52994
<u>transportation in the United States that is any of the following:</u>	52995
<u>(1) Between a place in a state and a place outside of that</u>	52996
<u>state (including a place outside of the United States);</u>	52997
<u>(2) Between two places in a state through another state or a</u>	52998
<u>place outside of the United States;</u>	52999
<u>(3) Between two places in a state as part of trade, traffic,</u>	53000
<u>or transportation originating or terminating outside the state or</u>	53001
<u>the United States.</u>	53002
<u>(E) "Intrastate commerce" means any trade, traffic, or</u>	53003
<u>transportation in any state which is not described in the term</u>	53004
<u>"interstate commerce."</u>	53005
<u>(F) "Motor vehicle" means any vehicle, machine, tractor,</u>	53006
<u>trailer, or semitrailer propelled or drawn by mechanical power and</u>	53007
<u>used upon the highways in the transportation of persons or</u>	53008
<u>property, or any combination thereof, but does not include any</u>	53009
<u>vehicle, locomotive, or car operated exclusively on a rail or</u>	53010
<u>rails, or a trolley bus operated by electric power derived from a</u>	53011
<u>fixed overhead wire, furnishing local passenger transportation</u>	53012
<u>similar to street-railway service.</u>	53013
<u>(G) "Public highway" means any public street, road, or</u>	53014
<u>highway in this state, whether within or without the corporate</u>	53015
<u>limits of a municipal corporation.</u>	53016
<u>(H) "Ridesharing arrangement" means the transportation of</u>	53017
<u>persons in a motor vehicle where such transportation is incidental</u>	53018
<u>to another purpose of a volunteer driver, and includes ridesharing</u>	53019
<u>arrangements known as carpools, vanpools, and buspools.</u>	53020

(I) "School bus" has the same meaning as in section 4511.01 53021
of the Revised Code. 53022

(J) "Trailer" means any vehicle without motive power designed 53023
or used for carrying persons or property and for being drawn by a 53024
separate motor vehicle, including any vehicle of the trailer type, 53025
whether designed or used for carrying persons or property wholly 53026
on its own structure, or so designed or used that a part of its 53027
own weight or the weight of its load rests upon and is carried by 53028
such motor vehicle. 53029

Sec. 4921.03. (A) No for-hire motor carrier may operate in 53030
intrastate commerce unless the carrier has a current and valid 53031
certificate of public convenience and necessity. 53032

(B) The public utilities commission shall issue a certificate 53033
of public convenience and necessity to any person who does all of 53034
the following: 53035

(1) Files with the commission, in accordance with rules 53036
adopted under section 4921.05 of the Revised Code, a complete and 53037
accurate application that shall include a certification that (a) 53038
the person understands and is in compliance with the applicable 53039
service, operation, and safety laws of this state and (b) the 53040
person meets the requirements of section 4921.09 of the Revised 53041
Code; 53042

(2) Agrees to maintain accurate and current business and 53043
insurance information with the commission, in accordance with the 53044
commission's rules; 53045

(3) Has paid all applicable registration fees in accordance 53046
with rules adopted under section 4921.11 of the Revised Code, all 53047
applicable taxes under section 4921.19 of the Revised Code, and 53048
any forfeitures imposed under section 4923.99 of the Revised Code. 53049

(C) The commission shall have no power to fix, alter, or 53050

establish rates for the transportation of persons or property, nor 53051
shall the commission have the power to require or accept the 53052
filing of tariffs establishing such rates. 53053

(D) A for-hire motor carrier may, at any time after a 53054
certificate of public convenience and necessity is granted or 53055
refused, file a new application or supplement a former 53056
application. 53057

(E) The commission may deny issuance of a certificate of 53058
public convenience and necessity for failure to comply with this 53059
section or rules adopted under section 4921.05 of the Revised 53060
Code. 53061

Sec. 4921.05. The public utilities commission shall adopt 53062
rules prescribing the manner and form in which a person shall 53063
apply for a certificate of public convenience and necessity under 53064
section 4921.03 of the Revised Code. The rules shall include a 53065
requirement that applications be made in writing on the blanks 53066
furnished by the commission and contain any information and 53067
certifications deemed necessary by the commission to carry out 53068
this chapter. 53069

Sec. 4921.07. (A) The public utilities commission shall adopt 53070
rules regarding procedures and timelines by which a certificate of 53071
public convenience and necessity issued under section 4921.03 of 53072
the Revised Code may be suspended. At a minimum, the rules shall 53073
require suspension of a certificate if the for-hire motor carrier 53074
does any of the following: 53075

(1) Fails to file a complete and accurate application for the 53076
certificate under section 4921.03 of the Revised Code; 53077

(2) Fails to maintain accurate and current business and 53078
insurance information with the commission; 53079

(3) Fails to maintain proper proof of insurance or proper 53080

levels of insurance under section 4921.09 of the Revised Code; 53081

(4) Fails to pay all applicable registration fees in 53082
accordance with rules adopted under section 4921.11 of the Revised 53083
Code, all applicable taxes under section 4921.19 of the Revised 53084
Code, and any forfeitures imposed under section 4923.99 of the 53085
Revised Code; 53086

(5) Requests to suspend the carrier's operations. 53087

(B)(1) The commission shall adopt rules regarding procedures 53088
and timelines by which a certificate suspended under division (A) 53089
of this section may be revoked if the conditions giving rise to 53090
the suspension are not remedied. 53091

(2) The commission shall provide the carrier with written 53092
notice indicating the nature of the deficiency, a proposed 53093
effective date of the revocation, and the means by which the 53094
deficiency may be remedied. The carrier may correct the identified 53095
deficiency or submit evidence refuting the proposed revocation 53096
within sixty days from the date of the notice. The commission may 53097
extend the sixty-day period for good cause shown. The commission 53098
may revoke the certificate after the remedy period if the carrier 53099
has not provided sufficient evidence to remedy the deficiency. 53100

Sec. 4921.09. (A) No certificate of public convenience and 53101
necessity shall be issued by the public utilities commission to 53102
any for-hire motor carrier until the carrier has filed with the 53103
commission a liability insurance certificate, policy, or bond 53104
satisfactory to the commission, in the sum and with the provisions 53105
the commission considers necessary adequately to protect the 53106
interests of the public, having due regard for the number of 53107
persons and amount of property affected. The certificate, policy, 53108
or bond shall insure the carrier against loss sustained by reason 53109
of death or injuries to persons and for loss or damage to property 53110
resulting from the negligence of the carrier. 53111

(B) No certificate for the transportation of household goods shall be issued to a for-hire motor carrier pursuant to sections 4921.30 to 4921.38 of the Revised Code until it has filed with the commission a freight cargo insurance certificate, policy, or bond that the commission has determined to be adequate to protect the interests of the shipping public.

(C) The Commission shall adopt rules to achieve the purposes of this section that are not incompatible with the requirements of the United States department of transportation. The rules shall at a minimum address all of the following:

(1) The minimum levels of financial responsibility for each type of for-hire motor carrier;

(2) The form and type of documents to be filed with the commission;

(3) The manner by which documents may be filed with the commission;

(4) The timelines for filing documents with the commission.

(D) If a certificate, policy, or bond required under division (A) of this section is canceled during its term or lapses for any reason, both of the following apply:

(1) All operations under the certificate of public convenience and necessity shall cease immediately, and further operations shall not be conducted until a replacement is filed with the commission under division (D)(2) of this section.

(2) The commission shall require the company to replace the certificate, policy, or bond with another that fully complies with the requirements of this section.

The certificate of public convenience and necessity shall be reinstated only after a satisfactory insurance certificate, policy, or bond has been filed with the commission.

(E) To ensure minimum standards of protection of consumers' household goods, the commission may adopt rules, not incompatible with the requirements of the United States department of transportation, governing requirements for cargo insurance for for-hire motor carriers engaged in the transportation of household goods over a public highway in this state. 53142
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Sec. 4921.11. The public utilities commission shall adopt rules applicable to registration pursuant to the unified carrier registration plan, codified as 49 U.S.C. 14504a, and the rules, procedures, and fee schedules adopted thereunder, in accordance with division (G) of section 4921.19 of the Revised Code. 53148
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Sec. 4921.13. (A) The public utilities commission shall adopt rules applicable to the filing of annual update forms and the payment of taxes by for-hire motor carriers. The rules shall not be incompatible with the requirements of the United States department of transportation. The rules shall at a minimum address all of the following: 53153
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(1) The information and certifications that must be provided to the commission on an annual update form, including a certification that the carrier continues to be in compliance with the applicable laws of this state. 53159
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(2) Documentation and information that must be provided regarding proof of financial responsibility; 53163
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(3) The form and manner in which taxes may be paid under section 4921.19 of the Revised Code. 53165
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(B) The rules may address any other information that the commission determines is necessary to carry out this section. 53167
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(C) A for-hire motor carrier shall not be issued a tax receipt under division (C) of section 4921.19 of the Revised Code until all of the following have been satisfied: 53169
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(1) A complete and accurate annual update form has been filed with the commission; 53172
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(2) Proof of financial responsibility remains in effect; 53174

(3) All applicable registration fees in accordance with rules adopted under section 4921.11 of the Revised Code, all applicable taxes under section 4921.19 of the Revised Code, and any forfeitures imposed under section 4923.99 of the Revised Code have been paid in full. 53175
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Sec. 4921.15. (A) As used in sections 4921.15, 4921.16, and 4921.19 of the Revised Code: 53180
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(1) "Uniform registration" has the same meaning as "registration" as used in the final report submitted to the United States secretary of transportation, pursuant to subsection (c) of section 22 of the "Hazardous Materials Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C.A. App. 1819. 53182
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(2) "Uniform permit" has the same meaning as "permit" as used in the final report submitted to the United States secretary of transportation, pursuant to subsection (c) of section 22 of the "Hazardous Materials Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C.A. App. 1819. 53187
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(B)(1) The public utilities commission may adopt rules applicable to the uniform registration and uniform permitting of persons engaged in the highway transportation of hazardous materials into, through, or within this state. The rules shall include rules staggering the registration date for those persons and reducing or extending, by no more than one year, the permit renewal period for those persons. 53192
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(2) For the purpose of minimizing filing requirements regarding any background investigation required for the issuance of a uniform permit as a carrier of hazardous wastes, the 53199
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commission shall accept from any applicant for the permit any 53202
refiling of information the applicant has filed with the office of 53203
the attorney general under section 3734.42 of the Revised Code or 53204
any reference to that information if the refiled or referenced 53205
information is on file with the office of the attorney general, is 53206
accurate and timely for the commission's purposes under this 53207
section, and is supplemented by any additional information the 53208
commission requires. The office of the attorney general, as 53209
necessary for a background investigation, shall make accessible to 53210
the commission any information referenced or refiled in an 53211
application for a uniform permit as a carrier of hazardous wastes 53212
that the attorney general determines may be disclosed in 53213
accordance with section 3734.42 of the Revised Code. Nothing in 53214
sections 4921.15, 4921.16, and division (H) of section 4921.19 of 53215
the Revised Code affects any limitations under section 3734.42 of 53216
the Revised Code on the disclosure of that information. 53217

(C) The commission, as necessary to implement the rules 53218
adopted under division (B) of this section, may enter into 53219
agreements, contracts, arrangements, or declarations with other 53220
states and with the national repository, established pursuant to 53221
the final report submitted to the United States secretary of 53222
transportation, pursuant to subsection (c) of section 22 of the 53223
"Hazardous Materials Transportation Uniform Safety Act of 1990," 53224
104 Stat. 3244, 49 U.S.C.A. App. 1819. The agreements, contracts, 53225
arrangements, or declarations shall include, but not be limited 53226
to, the determination of a base state, the collection of uniform 53227
registration fees, the frequency of distribution of uniform 53228
registration fees, procedures for dispute resolution, and 53229
protection of trade secrets and confidential business information. 53230

(D) No person shall knowingly falsify or fail to submit any 53231
data, reports, records, or other information required to be 53232
submitted to the commission pursuant to this section or a rule 53233

adopted under it. For purposes of this division, a person acts 53234
knowingly if either of the following applies: 53235

(1) The person has actual knowledge of the facts giving rise 53236
to the violation. 53237

(2) A reasonable person acting in the circumstances and 53238
exercising due care would have such knowledge. 53239

(E) After notice and opportunity for a hearing, the 53240
commission, pursuant to criteria set forth in rules adopted under 53241
division (B) of this section, may suspend, revoke, or deny the 53242
uniform permit as a carrier of hazardous materials of any person 53243
that has obtained or applied for such a uniform permit from the 53244
commission pursuant to rules adopted under that division, or the 53245
commission may order the suspension of the transportation of 53246
hazardous materials into, through, or within this state by a 53247
carrier that has obtained a uniform permit from another state that 53248
has a reciprocity agreement with the commission pursuant to 53249
division (C) of this section. 53250

(F)(1) The proceedings specified in division (E) of this 53251
section are subject to and governed by Chapter 4903. of the 53252
Revised Code, except as otherwise provided in this section. The 53253
court of appeals of Franklin county has exclusive original 53254
jurisdiction to review, modify, or vacate any order of the 53255
commission suspending, revoking, or denying a uniform permit as a 53256
carrier of hazardous materials of any person that has obtained or 53257
applied for a uniform permit from the commission pursuant to rules 53258
adopted under division (B) of this section, or any order of the 53259
commission suspending the transportation of hazardous materials 53260
into, through, or within this state by a carrier that has obtained 53261
a uniform permit from another state that has a reciprocity 53262
agreement with the commission under division (C) of this section. 53263
The court of appeals shall hear and determine those appeals in the 53264
same manner and under the same standards as the Ohio supreme court 53265

hears and determines appeals under Chapter 4903. of the Revised 53266
Code. The judgment of the court of appeals is final and conclusive 53267
unless reversed, vacated, or modified on appeal. Such appeals may 53268
be taken either by the commission or the person to whom the order 53269
was issued and shall proceed as in the case of appeals in civil 53270
actions as provided in Chapter 2505. of the Revised Code. 53271

(2) Section 4903.11 of the Revised Code does not apply to 53272
appeals of any order of the commission suspending, revoking, or 53273
denying a uniform permit of a person that has obtained or applied 53274
for a uniform permit from the commission pursuant to rules adopted 53275
under division (B) of this section, or of any order of the 53276
commission suspending the transportation of hazardous materials 53277
into, through, or within this state by a carrier that has obtained 53278
a uniform permit from another state that has a reciprocity 53279
agreement with the commission pursuant to division (C) of this 53280
section. Any person to whom such an order is issued who wishes to 53281
contest the order shall file, within sixty days after the entry of 53282
the order upon the journal of the commission, a notice of appeal, 53283
setting forth the order appealed from and the errors complained 53284
of. The notice of appeal shall be served, unless waived, upon the 53285
chairperson of the commission or, in the event of the 53286
chairperson's absence, upon any public utilities commissioner, or 53287
by leaving a copy at the office of the commission at Columbus. On 53288
appeal, the court shall reverse, vacate, or modify the order if, 53289
upon consideration of the record, the court is of the opinion that 53290
the order was unlawful or unreasonable. 53291

Sec. 4921.16. (A) Information submitted to the public 53292
utilities commission as part of a uniform registration 53293
application, pursuant to rules adopted under division (B) of 53294
section 4921.15 of the Revised Code, is a public record and is 53295
subject to section 149.43 of the Revised Code. 53296

(B) Except for information related to corporate structure and personnel, information that is submitted to the commission as part of a uniform permit application, pursuant to rules adopted under division (B) of section 4921.15 of the Revised Code, is a public record and is subject to section 149.43 of the Revised Code. Information that is related to corporate structure and personnel that is submitted to the commission as part of a uniform permit application, pursuant to rules adopted under division (B) of section 4921.15 of the Revised Code, is not a public record and is not subject to section 149.43 of the Revised Code. Except as provided in division (D) of this section, the commission shall not disclose to any person any information that is related to corporate structure and personnel that is submitted as part of a uniform permit application.

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(C) Information that is submitted for any background investigation for an application for a uniform permit as a carrier of hazardous wastes is not a public record and is not subject to section 149.43 of the Revised Code. Except as provided in division (D) of this section, the commission shall not disclose to any person any information submitted for any background investigation for such an application.

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(D) The commission may disclose to its authorized employees and to any federal agencies, state agencies of this state or another state, local government agencies of this state or another state, or the national repository established pursuant to the final report submitted to the United States secretary of transportation, pursuant to subsection (c) of section 22 of the "Hazardous Materials Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C.A. App. 1819, any information submitted to the commission as part of a uniform permit application that is related to corporate structure and personnel or submitted for any background investigation for an application for a uniform permit

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as a carrier of hazardous wastes if all of the following 53329
conditions are met: 53330

(1) The commission enters into a confidentiality agreement 53331
with the employee, agency, or national repository under which that 53332
employee or entity agrees not to disclose to any third party any 53333
information related to corporate structure or personnel or any 53334
information submitted as part of a background investigation unless 53335
the third party enters into a confidentiality agreement with the 53336
commission consistent with this division. 53337

(2) The employee, agency, or national repository certifies to 53338
the commission that it is not required by any state or federal law 53339
to disclose any information related to corporate structure or 53340
personnel or any information submitted as part of a background 53341
investigation. 53342

(3) The federal agency, state or local government agency of 53343
another state, or national repository irrevocably consents in 53344
writing to the jurisdiction of the courts of this state and 53345
service of process in this state, including, without limitation, 53346
summonses and subpoenas, for any civil proceeding arising out of 53347
an intentional disclosure of information in violation of this 53348
division. 53349

(E) Any person who intentionally discloses information in 53350
violation of division (D) of this section is liable to the owner 53351
of the information for civil damages caused by the disclosure. 53352

Sec. 4921.19. (A) Every for-hire motor carrier operating in 53353
this state shall, at the time of the issuance of a certificate of 53354
public convenience and necessity under section 4921.03 of the 53355
Revised Code, pay to the public utilities commission, for and on 53356
behalf of the treasurer of state, the following taxes: 53357

(1) For each motor vehicle used for transporting persons, 53358

thirty dollars; 53359

(2) For each commercial tractor, as defined in section 4501.01 of the Revised Code, used for transporting property, 53360
thirty dollars; 53361
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(3) For each other motor vehicle transporting property, 53363
twenty dollars. 53364

(B) Every for-hire motor carrier operating in this state solely in intrastate commerce shall, annually between the first day of May and the thirtieth day of June, pay to the commission, for and on behalf of the treasurer of state, the following taxes: 53365
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(1) For each motor vehicle used for transporting persons, 53369
thirty dollars; 53370

(2) For each commercial tractor, as defined in section 4501.01 of the Revised Code, used for transporting property, 53371
thirty dollars; 53372
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(3) For each other motor vehicle transporting property, 53374
twenty dollars. 53375

(C) After a for-hire motor carrier has paid the applicable taxes under division (B) of this section and all requirements under division (C) of section 4921.13 of the Revised Code have been met, the commission shall issue the carrier a tax receipt. The carrier shall carry a copy of the tax receipt in each motor vehicle operated by the carrier. The carrier shall maintain the original copy of the tax receipt at the carrier's primary place of business. 53376
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(D) A trailer used by a for-hire motor carrier shall not be taxed under this section. 53384
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(E) The annual tax levied by division (B) of this section does not apply in those cases where the commission finds that the movement of agricultural commodities or foodstuffs produced 53386
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therefrom requires a temporary and seasonal use of vehicular 53389
equipment for a period of not more than ninety days. In such 53390
event, the tax on the vehicular equipment shall be twenty-five per 53391
cent of the annual tax levied by division (B) of this section. If 53392
any vehicular equipment is used in excess of the ninety-day 53393
period, the annual tax levied by this section shall be paid. 53394

(F) All taxes levied by division (B) of this section shall be 53395
reckoned as from the beginning of the quarter in which the tax 53396
receipt is issued or as from when the use of equipment under any 53397
existing tax receipt began. 53398

(G) The fees for unified carrier registration pursuant to 53399
section 4921.11 of the Revised Code shall be identical to those 53400
established by the unified carrier registration act board as 53401
approved by the federal motor carrier safety administration for 53402
each year. 53403

(H)(1) The fees for uniform registration and a uniform permit 53404
as a carrier of hazardous materials pursuant to section 4921.15 of 53405
the Revised Code shall consist of the following: 53406

(a) A processing fee of fifty dollars; 53407

(b) An apportioned per-truck registration fee, which shall be 53408
calculated by multiplying the percentage of a registrant's 53409
activity in this state times the percentage of the registrant's 53410
business that is hazardous-materials-related, times the number of 53411
vehicles owned or operated by the registrant, times a per-truck 53412
fee determined by order of the commission following public notice 53413
and an opportunity for comment. 53414

(i) The percentage of a registrant's activity in this state 53415
shall be calculated by dividing the number of miles that the 53416
registrant travels in this state under the international 53417
registration plan, pursuant to section 4503.61 of the Revised 53418
Code, by the number of miles that the registrant travels 53419

nationwide under the international registration plan. Registrants 53420
that operate solely within this state shall use one hundred per 53421
cent as their percentage of activity. Registrants that do not 53422
register their vehicles through the international registration 53423
plan shall calculate activity in the state in the same manner as 53424
that required by the international registration plan. 53425

(ii) The percentage of a registrant's business that is 53426
hazardous-materials-related shall be calculated, for 53427
less-than-truckload shipments, by dividing the weight of all the 53428
registrant's hazardous materials shipments by the total weight of 53429
all shipments in the previous year. The percentage of a 53430
registrant's business that is hazardous-materials-related shall be 53431
calculated, for truckload shipments, by dividing the number of 53432
shipments for which placarding, marking of the vehicle, or 53433
manifesting, as appropriate, was required by regulations adopted 53434
under sections 4 to 6 of the "Hazardous Materials Transportation 53435
Uniform Safety Act of 1990," 104 Stat. 3244, 49 U.S.C. App. 1804, 53436
by the total number of the registrant's shipments that transported 53437
any kind of goods in the previous year. A registrant that 53438
transports both less-than-truckload and truckload shipments of 53439
hazardous materials shall calculate the percentage of business 53440
that is hazardous-materials-related on a proportional basis. 53441

(iii) A registrant may utilize fiscal year, or calendar year, 53442
or other current company accounting data, or other publicly 53443
available information, in calculating the percentages required by 53444
divisions (H)(1)(b)(i) and (ii) of this section. 53445

(2) The commission, after notice and opportunity for a 53446
hearing, may assess each carrier a fee for any background 53447
investigation required for the issuance, for the purpose of 53448
section 3734.15 of the Revised Code, of a uniform permit as a 53449
carrier of hazardous wastes and fees related to investigations and 53450
proceedings for the denial, suspension, or revocation of a uniform 53451

permit as a carrier of hazardous materials. The fees shall not 53452
exceed the reasonable costs of the investigations and proceedings. 53453
The fee for a background investigation for a uniform permit as a 53454
carrier of hazardous wastes shall be six hundred dollars plus the 53455
costs of obtaining any necessary information not included in the 53456
permit application, to be calculated at the rate of thirty dollars 53457
per hour, not exceeding six hundred dollars, plus any fees payable 53458
to obtain necessary information. 53459

(I) The application fee for a certificate for the 53460
transportation of household goods issued pursuant to sections 53461
4921.30 to 4921.38 of the Revised Code shall be based on the 53462
certificate holder's gross revenue, in the prior year, for the 53463
intrastate transportation of household goods. The commission shall 53464
establish, by order, ranges of gross revenue and the fee for each 53465
range. The fees shall be set in amounts sufficient to carry out 53466
the purposes of sections 4921.30 to 4921.38 and 4923.99 of the 53467
Revised Code and, to the extent necessary, the commission shall 53468
make changes to the fee structure to ensure that neither over nor 53469
under collection of the fees occurs. The fees shall also take into 53470
consideration the revenue generated from the assessment of 53471
forfeitures under section 4923.99 of the Revised Code regarding 53472
the consumer protection provisions applicable to for-hire motor 53473
carriers engaged in the transportation of household goods. 53474

(J) The fees and taxes provided under this section shall be 53475
in addition to taxes, fees, and charges fixed and exacted by other 53476
sections of the Revised Code, except the assessments required by 53477
section 4905.10 of the Revised Code, but all fees, license fees, 53478
annual payments, license taxes, or taxes or other money exactions, 53479
except the general property tax, assessed, charged, fixed, or 53480
exacted by local authorities such as municipal corporations, 53481
townships, counties, or other local boards, or the officers of 53482
such subdivisions are illegal and, are superseded by sections 53483

4503.04 and 4905.03 and Chapter 4921. of the Revised Code. On 53484
compliance with sections 4503.04 and 4905.03 and Chapter 4921. of 53485
the Revised Code, all local ordinances, resolutions, by laws, and 53486
rules in force shall cease to be operative as to the persons in 53487
compliance, except that such local subdivisions may make 53488
reasonable local police regulations within their respective 53489
boundaries not inconsistent with sections 4503.04 and 4905.03 and 53490
Chapter 4921. of the Revised Code. 53491

Sec. 4921.21. (A) As used in this section, "adjusted credit 53492
amount" means the aggregate amount credited to the public 53493
utilities transportation safety fund, less the sum of all of the 53494
following: 53495

(1) The fees collected by the public utilities commission, in 53496
accordance with the unified carrier registration plan under 53497
section 4921.11 of the Revised Code, that exceed the federal 53498
certification of revenue for each year of the plan; 53499

(2) The fees collected by the commission on behalf of other 53500
states under division (C) of section 4921.15 of the Revised Code; 53501

(3) The forfeitures collected by the commission under section 53502
4923.99 of the Revised Code for violations of rules adopted under 53503
division (A)(2) of section 4923.04 of the Revised Code. 53504

(B)(1) There is hereby created in the state treasury the 53505
public utilities transportation safety fund. The fees collected in 53506
accordance with the unified carrier registration plan under 53507
section 4921.11 of the Revised Code, the fees collected under 53508
section 4921.15 of the Revised Code, the taxes and fees remitted 53509
under section 4921.19 of the Revised Code, the forfeitures imposed 53510
under section 4923.99 of the Revised Code, except as provided in 53511
division (B)(2) of this section, and the fines collected under 53512
section 4163.07 of the Revised Code shall be deposited into the 53513
state treasury to the credit of the public utilities 53514

transportation safety fund, until the adjusted credit amount in a 53515
fiscal year is equal to the total amount appropriated from the 53516
fund for the fiscal year. Once this point of parity is reached, 53517
any additional fees, taxes, forfeitures, or fines received during 53518
the fiscal year shall be credited to the general revenue fund, 53519
except as provided in division (B)(2) of this section, and except 53520
for both of the following: 53521

(a) The fees collected in accordance with the unified carrier 53522
registration plan under section 4921.11 of the Revised Code, that 53523
exceed the federal certification of revenue for each year of the 53524
plan; 53525

(b) The fees collected on behalf of other states under 53526
division (C) of section 4921.15 of the Revised Code. 53527

(2) The first eight hundred thousand dollars of forfeitures 53528
collected under section 4923.99 of the Revised Code, for 53529
violations of rules adopted under division (A)(2) of section 53530
4923.04 of the Revised Code, during each fiscal year shall be 53531
credited to the public utilities transportation safety fund. Any 53532
forfeitures in excess of that amount shall be deposited into the 53533
general revenue fund. In each fiscal year, the commission shall 53534
distribute moneys from these forfeitures credited to the public 53535
utilities transportation safety fund for the purposes of emergency 53536
response planning and the training of safety, enforcement, and 53537
emergency services personnel in proper techniques for the 53538
management of hazardous materials releases that occur during 53539
transportation or otherwise. For these purposes, fifty per cent of 53540
all such moneys credited to the public utilities transportation 53541
safety fund shall be distributed to Cleveland state university, 53542
forty-five per cent shall be distributed to other educational 53543
institutions, state agencies, regional planning commissions, and 53544
political subdivisions, and five per cent shall be retained by the 53545
commission for the administration of this section and for training 53546

employees. However, if, in any such period, moneys from these 53547
forfeitures credited to the public utilities transportation safety 53548
fund equal an amount less than four hundred thousand dollars, the 53549
commission shall distribute, to the extent of the aggregate amount 53550
of those moneys, two hundred thousand dollars to Cleveland state 53551
university and the remainder to other educational institutions, 53552
state agencies, regional planning commissions, and political 53553
subdivisions. 53554

(C) The purpose of the public utilities transportation safety 53555
fund shall be for defraying all expenses incident to maintaining 53556
the nonrailroad transportation activities of the commission. 53557

(D) There is hereby created in the state treasury the federal 53558
commercial vehicle transportation systems fund. The fund shall 53559
consist of money received from the United States department of 53560
transportation's commercial vehicle intelligent transportation 53561
systems infrastructure deployment program. The public utilities 53562
commission shall use the fund to deploy the Ohio commercial 53563
vehicle information systems networks project and to improve safety 53564
of motor carrier operations through electronic exchange of data. 53565

(E) There is hereby created in the state treasury the motor 53566
carrier safety fund. The fund shall consist of money received from 53567
the United States department of transportation for motor carrier 53568
safety. The commission shall use the fund to administer the 53569
state's motor carrier safety assistance program and associated 53570
grants, including the motor carrier safety assistance program 53571
basic grant, the incentive grant, the high priority grants, the 53572
new entrant safety assurance grant, the safety data improvement 53573
grant, or their equivalents. 53574

(F) If the director of budget and management determines there 53575
is not sufficient money in the public utilities transportation 53576
safety fund, the director shall transfer money from the general 53577
revenue fund to the public utilities transportation safety fund in 53578

an amount up to the difference between the balance of the public utilities transportation safety fund and the appropriations from that fund. If the director subsequently determines during the fiscal year that the balance of the public utilities transportation safety fund exceeds the amount needed to support the appropriations from the fund, the director shall transfer the excess money, up to the amount of the original transfer, to the general revenue fund. 53579
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Sec. 4921.25. Any person, firm, copartnership, voluntary association, joint-stock association, company, or corporation, wherever organized or incorporated, that is engaged in the towing of motor vehicles is subject to regulation by the public utilities commission as a for-hire motor carrier under this chapter. Such an entity is not subject to any ordinance, rule, or resolution of a municipal corporation, county, or township that provides for the licensing, registering, or regulation of entities that tow motor vehicles. 53587
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Sec. 4921.30. Except as otherwise provided in sections 4921.32 to 4921.38 of the Revised Code, a for-hire motor carrier engaged in the transportation of household goods in intrastate commerce: 53596
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(A) Is subject to Chapter 4921. of the Revised Code and to all other provisions of the Revised Code applicable to a for-hire motor carrier, including sections 4506.22, 4511.78, 5502.01, 5503.02, and 5503.34 of the Revised Code; 53600
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(B) Is not a public utility as defined in section 4911.01 of the Revised Code. 53604
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Sec. 4921.32. Notwithstanding any provision of this chapter or Chapters 4901. to 4909. and 4923. of the Revised Code to the contrary: 53606
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(A) Not later than six months after the effective date of this section, the public utilities commission, in accordance with sections 4921.30 to 4921.38 of the Revised Code, shall establish by order a certification system for for-hire motor carriers engaged in the transportation of household goods in intrastate commerce. 53609
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(B) Beginning on the effective date of the order of the commission as initially issued under division (A) of this section, no for-hire motor carrier shall engage in the transportation of household goods in intrastate commerce without first holding a current and valid certificate for the transportation of household goods issued by the commission pursuant to sections 4921.30 to 4921.38 of the Revised Code. 53615
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Sec. 4921.34. (A) The public utilities commission shall approve an application for a certificate for the transportation of household goods under sections 4921.30 to 4921.38 of the Revised Code and shall issue a certificate, provided the applicant pays the applicable application fee under division (I) of section 4921.19 of the Revised Code and submits to the commission a completed application, on a form prescribed by the commission, that is substantially the same as the application prescribed by the commission pursuant to section 4921.05 of the Revised Code, and includes a certification of all of the following by responsible officials of the applicant: 53622
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(1) The applicant's workers' compensation coverage is current pursuant to Chapter 4123. of the Revised Code. 53633
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(2) The applicant's unemployment compensation coverage is current pursuant to Chapter 4141. of the Revised Code. 53635
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(3) The applicant's financial responsibility is in accordance with rules adopted by the commission under section 4921.09 of the Revised Code. 53637
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(B) The commission shall not approve any application that does not contain the proper certifications required by this section. The commission may revoke a certificate issued under division (A) of this section if, after at least fifteen days' advance notice to the certificate holder of the basis for such action and providing the holder with an opportunity for a hearing, the commission finds that the holder is not in compliance with this chapter, or rules adopted or orders issued under it.

(C) A certificate issued under division (A) of this section is valid for one year and is renewable annually.

Sec. 4921.36. Each holder of a certificate for the transportation of household goods shall do all of the following:

(A) Make its current certificate available for public inspection during normal business hours;

(B) Present each of its customers with information, written in plain and clear language and pursuant to a form prescribed by the public utilities commission, outlining a consumer's rights;

(C) Include its certificate number on all advertising, written estimates, and contracts, pursuant to rules adopted by the commission.

Sec. 4921.38. In accordance with sections 4921.30 to 4921.36 of the Revised Code, the public utilities commission may adopt rules regarding any of the following:

(A) Providing for binding estimates by for-hire motor carriers engaged in the transportation of household goods in intrastate commerce;

(B) Providing for guaranteed-not-to-exceed estimates by those carriers;

(C) Requiring those carriers to include their certificate

<u>number in all advertising, written estimates, and contracts</u>	53669
<u>related to the transportation of household goods in intrastate</u>	53670
<u>commerce;</u>	53671
<u>(D) As are necessary and proper to carry out this chapter</u>	53672
<u>with respect to those carriers;</u>	53673
<u>(E) Providing for the enforcement of the consumer protection</u>	53674
<u>provisions of Title 49 of the United States Code related to the</u>	53675
<u>delivery and transportation of household goods in interstate</u>	53676
<u>commerce, as permitted by 49 U.S.C. 14710.</u>	53677
<u>Sec. 4923.01. As used in this chapter:</u>	53678
<u>(A) "Ambulance," "interstate commerce," "intrastate</u>	53679
<u>commerce," "motor vehicle," "public highway," "ridesharing</u>	53680
<u>arrangement," and "school bus" have the same meanings as in</u>	53681
<u>section 4921.01 of the Revised Code.</u>	53682
<u>(B) "For-hire motor carrier" means a person engaged in the</u>	53683
<u>business of transporting persons or property by motor vehicle for</u>	53684
<u>compensation, except when engaged in any of the following in</u>	53685
<u>intrastate commerce:</u>	53686
<u>(1) The transportation of persons in taxicabs in the usual</u>	53687
<u>taxicab service;</u>	53688
<u>(2) The transportation of pupils in school busses operating</u>	53689
<u>to or from school sessions or school events;</u>	53690
<u>(3) The transportation of farm supplies to the farm or farm</u>	53691
<u>products from farm to market or to food fabricating plants;</u>	53692
<u>(4) The distribution of newspapers;</u>	53693
<u>(5) The transportation of crude petroleum incidental to</u>	53694
<u>gathering from wells and delivery to destination by pipe line;</u>	53695
<u>(6) The transportation of injured, ill, or deceased persons</u>	53696
<u>by hearse or ambulance;</u>	53697

(7) The transportation of compost (a combination of manure and sand or shredded bark mulch) or shredded bark mulch; 53698
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(8) The transportation of persons in a ridesharing arrangement when any fee charged each person so transported is in such amount as to recover only the person's share of the costs of operating the motor vehicle for such purpose. 53700
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"For-hire motor carrier" includes the carrier's agents, officers, and representatives, as well as employees responsible for hiring, supervising, training, assigning, or dispatching drivers and employees concerned with the installation, inspection, and maintenance of motor-vehicle equipment and accessories. 53704
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Divisions (B)(1) to (8) of this section shall not be construed to relieve a person from compliance with rules adopted under division (A)(2) of section 4923.04 of the Revised Code, division (E) of section 4923.06 of the Revised Code, division (B) of section 4923.07 of the Revised Code, and section 4923.11 of the Revised Code, or from compliance with rules regarding commercial driver's licenses adopted under division (A)(1) of section 4923.04 of the Revised Code. 53709
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(C) "Motor carrier" means both a for-hire motor carrier and a private motor carrier. 53717
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(D) "Private motor carrier" means a person who is not a for-hire motor carrier but is engaged in the business of transporting persons or property by motor vehicle, except as provided in section 4923.02 of the Revised Code. "Private motor carrier" includes the carrier's agents, officers, and representatives, as well as employees responsible for hiring, supervising, training, assigning, or dispatching drivers and employees concerned with the installation, inspection, and maintenance of motor-vehicle equipment and accessories. 53719
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<u>Sec. 4923.02. (A) As used in this chapter, "private motor</u>	53728
<u>carrier" does not include a person when engaged in any of the</u>	53729
<u>following in intrastate commerce:</u>	53730
<u>(1) The transportation of persons in taxicabs in the usual</u>	53731
<u>taxicab service;</u>	53732
<u>(2) The transportation of pupils in school busses operating</u>	53733
<u>to or from school sessions or school events;</u>	53734
<u>(3) The transportation of farm supplies to the farm or farm</u>	53735
<u>products from farm to market or to food fabricating plants;</u>	53736
<u>(4) The distribution of newspapers;</u>	53737
<u>(5) The transportation of crude petroleum incidental to</u>	53738
<u>gathering from wells and delivery to destination by pipe line;</u>	53739
<u>(6) The transportation of injured, ill, or deceased persons</u>	53740
<u>by hearse or ambulance;</u>	53741
<u>(7) The transportation of compost (a combination of manure</u>	53742
<u>and sand or shredded bark mulch) or shredded bark mulch;</u>	53743
<u>(8) The transportation of persons in a ridesharing</u>	53744
<u>arrangement when any fee charged each person so transported is in</u>	53745
<u>such amount as to recover only the person's share of the costs of</u>	53746
<u>operating the motor vehicle for such purpose;</u>	53747
<u>(9) The operation of motor vehicles for contractors on public</u>	53748
<u>road work;</u>	53749
<u>(10) The towing of disabled or wrecked motor vehicles.</u>	53750
<u>(B) The public utilities commission may grant a motor carrier</u>	53751
<u>operating in intrastate commerce a temporary exemption from some</u>	53752
<u>or all of the provisions of this chapter and the rules adopted</u>	53753
<u>under it, when either of the following applies:</u>	53754
<u>(1) The governor of this state has declared an emergency.</u>	53755

(2) The chairperson of the commission or the chairperson's designee has declared a transportation-specific emergency. 53756
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(C) The commission may adopt rules not incompatible with the requirements of the United States department of transportation to provide exemptions to motor carriers operating in intrastate commerce not otherwise identified in divisions (A) and (B) of this section. 53758
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(D) Divisions (A) to (C) of this section shall not be construed to relieve a person from compliance with either of the following: 53763
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(1) Rules adopted under division (A)(2) of section 4923.04 of the Revised Code, division (E) of section 4923.06 of the Revised Code, division (B) of section 4923.07 of the Revised Code, and section 4923.11 of the Revised Code; 53766
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(2) Rules regarding commercial driver's licenses adopted under division (A)(1) of section 4923.04 of the Revised Code. 53770
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Sec. 4923.04. (A)(1) The public utilities commission shall adopt rules applicable to the transportation of persons or property by motor carriers operating in interstate and intrastate commerce. 53772
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(2) The commission shall adopt rules applicable to the highway transportation and offering for transportation of hazardous materials by motor carriers, and persons engaging in the highway transportation and offering for transportation of hazardous materials, operating in interstate or intrastate commerce. 53776
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(B) The rules adopted under division (A) of this section shall not be incompatible with the requirements of the United States department of transportation. 53782
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(C) To achieve the purposes of this chapter and to assist the 53785

commission in the performance of any of its powers or duties, the 53786
commission, either through the public utilities commissioners or 53787
employees authorized by it, may do either or both of the 53788
following: 53789

(1) Apply for, and any judge of a court of record of 53790
competent jurisdiction may issue, an appropriate search warrant; 53791

(2) Examine under oath, at the offices of the commission, any 53792
officer, agent, or employee of any person subject to this chapter. 53793
The commission, by subpoena, also may compel the attendance of a 53794
witness for the purpose of the examination and, by subpoena duces 53795
tecum, may compel the production of all books, contracts, records, 53796
and documents that relate to the transportation and offering for 53797
transportation of hazardous materials. 53798

Sec. 4923.06. (A) The public utilities commission may, 53799
through the commission's inspectors or other authorized employees, 53800
enter in or upon any motor vehicle of any motor carrier, or any 53801
person engaging in the transportation of hazardous material or 53802
hazardous waste, to inspect the motor vehicle or driver subject to 53803
rules adopted under section 4923.04 of the Revised Code. 53804

(B) In order to assist the commission in performing its 53805
duties under this section, authorized employees of the state 53806
highway patrol of the department of public safety may conduct 53807
inspections of motor vehicles and drivers. 53808

(C) Inspectors and employees authorized to conduct 53809
inspections under divisions (A) and (B) of this section may, under 53810
the direction of the commission, stop motor vehicles to inspect 53811
those vehicles and drivers to enforce compliance with rules 53812
adopted under section 4923.04 of the Revised Code. 53813

(D) Inspectors and employees authorized to conduct 53814
inspections under divisions (A) and (B) of this section shall 53815

conduct inspections consistent with the North American standard 53816
inspection procedure of the commercial vehicle safety alliance and 53817
the standards of the United States department of transportation. 53818
The inspectors and employees may declare drivers and motor 53819
vehicles out-of-service consistent with this procedure and these 53820
standards. 53821

(E) The commission may adopt rules to carry out this section 53822
that are not incompatible with the requirements of the United 53823
States department of transportation. 53824

Sec. 4923.07. (A) The public utilities commission may, 53825
through the commission's inspectors or other authorized employees, 53826
enter in or upon the premises and motor vehicles of any motor 53827
carrier, or any person engaging in the transportation of hazardous 53828
material or hazardous waste, to examine any records, documents, or 53829
property for the purpose of assessing the safety, performance, and 53830
management controls associated with the carrier or person. 53831

(B) The commission may adopt rules to carry out this section 53832
that are not incompatible with the requirements of the United 53833
States department of transportation. 53834

Sec. 4923.09. The public utilities commission shall cooperate 53835
with and permit the use of the services, records, and facilities 53836
of the commission as fully as practicable by appropriate officers 53837
of the United States department of transportation, other federal 53838
agencies or commissions, and appropriate commissions of other 53839
states in the enforcement and administration of state and federal 53840
laws relating to highway transportation by motor vehicles. The 53841
commission may enter into cooperative agreements with the United 53842
States department of transportation and any other federal agency 53843
or commission to enforce the safety laws and rules of this state 53844
and of the United States concerning highway transportation by 53845

motor vehicles. All grants-in-aid, cash, and reimbursements 53846
received by the commission pursuant to those cooperative 53847
agreements shall be deposited to the credit of the motor carrier 53848
safety fund created under section 4921.21 of the Revised Code. 53849

Sec. 4923.11. The public utilities commission may adopt rules 53850
applicable to the highway routing of hazardous materials into, 53851
through, or within this state. Rules adopted under this section 53852
shall not be incompatible with requirements of the United States 53853
department of transportation. 53854

Sec. 4923.15. Proceedings of the public utilities commission 53855
for the assessment of forfeitures for violations of Chapters 4921. 53856
and 4923. of the Revised Code are subject to and governed by 53857
section 4923.99 of the Revised Code. In all other respects in 53858
which the commission has power and authority under Chapters 4921. 53859
and 4923. of the Revised Code, applications and complaints may be 53860
made and filed with the commission, processes may be issued, 53861
hearings may be held, opinions, orders, and decisions may be made 53862
and filed, petitions for rehearing may be filed and acted upon, 53863
and all proceedings before the supreme court of this state may be 53864
considered and disposed of by that court in the manner, under the 53865
conditions, subject to the limitations, and with the effect 53866
specified in the sections of the Revised Code governing the 53867
supervision of public utilities by the commission. 53868

Sec. 4923.99. (A)(1) Whoever violates Chapter 4921. or 4923. 53869
of the Revised Code is liable to the state for a forfeiture of not 53870
more than twenty-five thousand dollars for each day of each 53871
violation. The public utilities commission, after providing 53872
reasonable notice and the opportunity for a hearing in accordance 53873
with the procedural rules adopted under section 4901.13 of the 53874
Revised Code, shall assess, by order, a forfeiture upon a person 53875

whom the commission determines, by a preponderance of the 53876
evidence, committed the violation. In determining the amount of 53877
the forfeiture for a violation discovered during a driver or 53878
motor-vehicle inspection under section 4923.06 of the Revised 53879
Code, the commission shall, to the extent practicable, not act in 53880
a manner incompatible with the requirements of the United States 53881
department of transportation, and, to the extent practicable, 53882
shall utilize a system comparable to the recommended civil-penalty 53883
procedure adopted by the commercial vehicle safety alliance. In 53884
determining the amount of the forfeiture for a violation 53885
discovered during a compliance review of a motor carrier under 53886
section 4923.07 of the Revised Code, the commission shall, to the 53887
extent practicable, not act in a manner incompatible with the 53888
civil-penalty guidelines of the United States department of 53889
transportation. 53890

The attorney general, upon the written request of the 53891
commission, shall bring a civil action in the court of common 53892
pleas of Franklin county to collect a forfeiture assessed under 53893
this section. The commission shall account for the forfeitures 53894
collected under this section and pay them to the treasurer of 53895
state under section 4921.21 of the Revised Code. 53896

(2) The attorney general, upon the written request of the 53897
commission, shall bring an action for injunctive relief in the 53898
court of common pleas of Franklin county against any person who 53899
has violated or is violating any order issued by the commission to 53900
secure compliance with any provision of Chapter 4921. or 4923. of 53901
the Revised Code. The court of common pleas of Franklin county has 53902
jurisdiction to and may grant preliminary and permanent injunctive 53903
relief upon a showing that the person against whom the action is 53904
brought has violated or is violating any such order. The court 53905
shall give precedence to such an action over all other cases. 53906

(B) The amount of any forfeiture may be compromised at any 53907

time prior to collection of the forfeiture. The commission shall 53908
adopt rules governing the manner in which the amount of a 53909
forfeiture may be established by agreement prior to the hearing on 53910
the forfeiture before the commission. 53911

(C) The proceedings of the commission specified in division 53912
(A) of this section are subject to and governed by Chapter 4903. 53913
of the Revised Code, except as otherwise specifically provided in 53914
this section. The court of appeals of Franklin county has 53915
exclusive, original jurisdiction to review, modify, or vacate an 53916
order of the commission issued to secure compliance with any 53917
provision of Chapter 4921. or 4923. of the Revised Code. The court 53918
of appeals shall hear and determine those appeals in the same 53919
manner, and under the same standards, as the supreme court hears 53920
and determines appeals under Chapter 4903. of the Revised Code. 53921
The judgment of the court of appeals is final and conclusive 53922
unless reversed, vacated, or modified on appeal. Such appeals may 53923
be taken either by the commission or the person to whom the 53924
compliance order or forfeiture assessment was issued and shall 53925
proceed as in the case of appeals in civil actions as provided in 53926
the rules of appellate procedure and Chapter 2505. of the Revised 53927
Code. 53928

(D) Section 4903.11 of the Revised Code does not apply to an 53929
appeal of an order issued to secure compliance with Chapter 4921. 53930
or 4923. of the Revised Code or an order issued under division 53931
(A)(1) of this section assessing a forfeiture. Any person to whom 53932
any such order is issued who wishes to contest a compliance order, 53933
the fact of the violation, or the amount of the forfeiture shall 53934
file a notice of appeal, setting forth the order appealed from and 53935
the errors complained of, within sixty days after the entry of the 53936
order upon the journal of the commission. The notice of appeal 53937
shall be served, unless waived, upon the chairperson of the 53938
commission or, in the event of the chairperson's absence, upon any 53939

public utilities commissioner, or by leaving a copy at the office 53940
of the commission at Columbus. An order issued by the commission 53941
to secure compliance with Chapter 4921. or 4923. of the Revised 53942
Code or an order issued under division (A)(1) of this section 53943
assessing a forfeiture shall be reversed, vacated, or modified on 53944
appeal if, upon consideration of the record, the court is of the 53945
opinion that the order was unlawful or unreasonable. 53946

(E) Only for such violations that constitute violations of 53947
the "Hazardous Materials Transportation Uniform Safety Act of 53948
1990," 104 Stat. 3244, 49 U.S.C.A. App. 1804 and 1805, or 53949
regulations adopted under the act, the commission, in determining 53950
liability, shall use the same standard of culpability for civil 53951
forfeitures under this section as that set forth for civil 53952
penalties under section 12 of the "Hazardous Materials 53953
Transportation Uniform Safety Act of 1990," 104 Stat. 3244, 49 53954
U.S.C.A. App. 1809. The commission shall consider the assessment 53955
considerations for civil penalties specified in regulations 53956
adopted under the "Hazardous Materials Transportation Act," 88 53957
Stat. 2156 (1975), 49 U.S.C. 1801. 53958

Sec. 4927.01. (A) As used in this chapter: 53959

(1) "Basic local exchange service" means residential-end-user 53960
access to and usage of telephone-company-provided services over a 53961
single line or small-business-end-user access to and usage of 53962
telephone-company-provided services over the primary access line 53963
of service, which in the case of residential and small-business 53964
access and usage is not part of a bundle or package of services, 53965
that does both of the following: 53966

(a) Enables a customer to originate or receive voice 53967
communications within a local service area as that area exists on 53968
September 13, 2010, the effective date of the amendment of this 53969
section by S.B. 162 of the 128th general assembly; 53970

(b) Consists of all of the following services:	53971
(i) Local dial tone service;	53972
(ii) For residential end users, flat-rate telephone exchange service;	53973 53974
(iii) Touch tone dialing service;	53975
(iv) Access to and usage of 9-1-1 services, where such services are available;	53976 53977
(v) Access to operator services and directory assistance;	53978
(vi) Provision of a telephone directory in any reasonable format for no additional charge and a listing in that directory, with reasonable accommodations made for private listings;	53979 53980 53981
(vii) Per call, caller identification blocking services;	53982
(viii) Access to telecommunications relay service; and	53983
(ix) Access to toll presubscription, interexchange or toll providers or both, and networks of other telephone companies.	53984 53985
(2) "Bundle or package of services" means one or more telecommunications services or other services offered together as one service option at a single price.	53986 53987 53988
(3) "Carrier access" means access to and usage of telephone company-provided facilities that enable end user customers originating or receiving voice grade, data, or image communications, over a local exchange telephone company network operated within a local service area, to access interexchange or other networks and includes special access.	53989 53990 53991 53992 53993 53994
(4) "Federal poverty level" means the income level represented by the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family	53995 53996 53997 53998 53999

size equal to the size of the family of the person whose income is 54000
being determined. 54001

(5) "Incumbent local exchange carrier" means, with respect to 54002
an area, the local exchange carrier that: 54003

(a) On February 8, 1996, provided telephone exchange service 54004
in such area; and 54005

(b)(i) On February 8, 1996, was deemed to be a member of the 54006
exchange carrier association pursuant to 47 C.F.R. 69.601(b); or 54007

(ii) Is a person or entity that, on or after February 8, 54008
1996, became a successor or assign of a member described in 54009
division (A)(5)(b)(i) of this section. 54010

(6) "Internet protocol-enabled services" means any services, 54011
capabilities, functionalities, or applications that are provided 54012
using internet protocol or a successor protocol to enable an end 54013
user to send or receive communications in internet protocol format 54014
or a successor format, regardless of how any particular such 54015
service is classified by the federal communications commission, 54016
and includes voice over internet protocol service. 54017

(7) "Local exchange carrier" means any person engaged in the 54018
provision of telephone exchange service, or the offering of access 54019
to telephone exchange service or facilities for the purpose of 54020
originating or terminating telephone toll service. 54021

(8) "Local service area" means the geographic area that may 54022
encompass more than one exchange area and within which a telephone 54023
customer, by paying the rate for basic local exchange service, may 54024
complete calls to other telephone customers without being assessed 54025
long distance toll charges. 54026

(9) "Small business" means a nonresidential service customer 54027
with three or fewer service access lines. 54028

(10) "Telecommunications" means the transmission, between or 54029

among points specified by the user, of information of the user's 54030
choosing, without change in the form or content of the information 54031
as sent and received. 54032

(11) "Telecommunications carrier" has the same meaning as in 54033
the "Telecommunications Act of 1996," 110 Stat. 60, 47 U.S.C. 153. 54034

(12) "Telecommunications service" means the offering of 54035
telecommunications for a fee directly to the public, or to such 54036
classes of users as to be effectively available directly to the 54037
public, regardless of the facilities used. 54038

(13) "Telephone company" means a company described in 54039
division (A)~~(1)~~ of section 4905.03 of the Revised Code that is a 54040
public utility under section 4905.02 of the Revised Code. 54041

(14) "Telephone exchange service" means telecommunications 54042
service that is within a telephone exchange, or within a connected 54043
system of telephone exchanges within the same exchange area 54044
operated to furnish to subscribers intercommunicating service of 54045
the character ordinarily furnished by a single exchange, and that 54046
is covered by the exchange service charge; or comparable service 54047
provided through a system of switches, transmission equipment, or 54048
other facilities, or combination thereof, by which a customer can 54049
originate and terminate a telecommunications service. 54050

(15) "Telephone toll service" means telephone service between 54051
stations in different exchange areas for which there is made a 54052
separate charge not included in contracts with customers for 54053
exchange service. 54054

(16) "Voice over internet protocol service" means a service 54055
that uses a broadband connection from an end user's location and 54056
enables real-time, two-way, voice communications that originate or 54057
terminate from the user's location using internet protocol or a 54058
successor protocol, including, but not limited to, any such 54059
service that permits an end user to receive calls from and 54060

terminate calls to the public switched network. 54061

(17) "Wireless service" means federally licensed commercial 54062
mobile service as defined in the "Telecommunications Act of 1996," 54063
110 Stat. 61, 151, 153, 47 U.S.C. 332(d) and further defined as 54064
commercial mobile radio service in 47 C.F.R. 20.3. Under division 54065
(A)(17) of this section, commercial mobile radio service is 54066
specifically limited to mobile telephone, mobile cellular 54067
telephone, paging, personal communications services, and 54068
specialized mobile radio service provided by a common carrier in 54069
this state and excludes fixed wireless service. 54070

(18) "Wireless service provider" means a facilities-based 54071
provider of wireless service to one or more end users in this 54072
state. 54073

(B) The definitions of this section shall be applied 54074
consistent with the definitions in the "Telecommunications Act of 54075
1996," 110 Stat. 56, 47 U.S.C. 151 et seq., as amended, and with 54076
federal decisions interpreting those definitions. 54077

Sec. 4929.01. As used in this chapter: 54078

(A) "Alternative rate plan" means a method, alternate to the 54079
method of section 4909.15 of the Revised Code, for establishing 54080
rates and charges, under which rates and charges may be 54081
established for a commodity sales service or ancillary service 54082
that is not exempt pursuant to section 4929.04 of the Revised Code 54083
or for a distribution service. Alternative rate plans may include, 54084
but are not limited to, methods that provide adequate and reliable 54085
natural gas services and goods in this state; minimize the costs 54086
and time expended in the regulatory process; tend to assess the 54087
costs of any natural gas service or goods to the entity, service, 54088
or goods that cause such costs to be incurred; afford rate 54089
stability; promote and reward efficiency, quality of service, or 54090
cost containment by a natural gas company; provide sufficient 54091

flexibility and incentives to the natural gas industry to achieve 54092
high quality, technologically advanced, and readily available 54093
natural gas services and goods at just and reasonable rates and 54094
charges; or establish revenue decoupling mechanisms. Alternative 54095
rate plans also may include, but are not limited to, automatic 54096
adjustments based on a specified index or changes in a specified 54097
cost or costs. 54098

(B) "Ancillary service" means a service that is ancillary to 54099
the receipt or delivery of natural gas to consumers, including, 54100
but not limited to, storage, pooling, balancing, and transmission. 54101

(C) "Commodity sales service" means the sale of natural gas 54102
to consumers, exclusive of any distribution or ancillary service. 54103

(D) "Comparable service" means any regulated service or goods 54104
whose availability, quality, price, terms, and conditions are the 54105
same as or better than those of the services or goods that the 54106
natural gas company provides to a person with which it is 54107
affiliated or which it controls, or, as to any consumer, that the 54108
natural gas company offers to that consumer as part of a bundled 54109
service that includes both regulated and exempt services or goods. 54110

(E) "Consumer" means any person or association of persons 54111
purchasing, delivering, storing, or transporting, or seeking to 54112
purchase, deliver, store, or transport, natural gas, including 54113
industrial consumers, commercial consumers, and residential 54114
consumers, but not including natural gas companies. 54115

(F) "Distribution service" means the delivery of natural gas 54116
to a consumer at the consumer's facilities, by and through the 54117
instrumentalities and facilities of a natural gas company, 54118
regardless of the party having title to the natural gas. 54119

(G) "Natural gas company" means a natural gas company, as 54120
defined in section 4905.03 of the Revised Code, that is a public 54121
utility as defined in section 4905.02 of the Revised Code and 54122

excludes a retail natural gas supplier. 54123

(H) "Person," except as provided in division (N) of this 54124
section, has the same meaning as in section 1.59 of the Revised 54125
Code, and includes this state and any political subdivision, 54126
agency, or other instrumentality of this state and includes the 54127
United States and any agency or other instrumentality of the 54128
United States. 54129

(I) "Billing or collection agent" means a fully independent 54130
agent, not affiliated with or otherwise controlled by a retail 54131
natural gas supplier or governmental aggregator subject to 54132
certification under section 4929.20 of the Revised Code, to the 54133
extent that the agent is under contract with such supplier or 54134
aggregator solely to provide billing and collection for 54135
competitive retail natural gas service on behalf of the supplier 54136
or aggregator. 54137

(J) "Competitive retail natural gas service" means any retail 54138
natural gas service that may be competitively offered to consumers 54139
in this state as a result of revised schedules approved under 54140
division (C) of section 4929.29 of the Revised Code, a rule or 54141
order adopted or issued by the public utilities commission under 54142
Chapter 4905. of the Revised Code, or an exemption granted by the 54143
commission under sections 4929.04 to 4929.08 of the Revised Code. 54144

(K) "Governmental aggregator" means either of the following: 54145

(1) A legislative authority of a municipal corporation, a 54146
board of township trustees, or a board of county commissioners 54147
acting exclusively under section 4929.26 or 4929.27 of the Revised 54148
Code as an aggregator for the provision of competitive retail 54149
natural gas service; 54150

(2) A municipal corporation acting exclusively under Section 54151
4 of Article XVIII, Ohio Constitution, as an aggregator for the 54152
provision of competitive retail natural gas service. 54153

(L)(1) "Mercantile customer" means a customer that consumes, 54154
other than for residential use, more than five hundred thousand 54155
cubic feet of natural gas per year at a single location within 54156
this state or consumes natural gas, other than for residential 54157
use, as part of an undertaking having more than three locations 54158
within or outside of this state. "Mercantile customer" excludes a 54159
customer for which a declaration under division (L)(2) of this 54160
section is in effect pursuant to that division. 54161

(2) A not-for-profit customer that consumes, other than for 54162
residential use, more than five hundred thousand cubic feet of 54163
natural gas per year at a single location within this state or 54164
consumes natural gas, other than for residential use, as part of 54165
an undertaking having more than three locations within or outside 54166
this state may file a declaration under division (L)(2) of this 54167
section with the public utilities commission. The declaration 54168
shall take effect upon the date of filing, and by virtue of the 54169
declaration, the customer is not a mercantile customer for the 54170
purposes of this section and sections 4929.20 to 4929.29 of the 54171
Revised Code or the purposes of a governmental natural gas 54172
aggregation or arrangement or other contract entered into after 54173
the declaration's effective date for the supply or arranging of 54174
the supply of natural gas to the customer to a location within 54175
this state. The customer may file a rescission of the declaration 54176
with the commission at any time. The rescission shall not affect 54177
any governmental natural gas aggregation or arrangement or other 54178
contract entered into by the customer prior to the date of the 54179
filing of the rescission and shall have effect only with respect 54180
to any subsequent such aggregation or arrangement or other 54181
contract. The commission shall prescribe rules under section 54182
4929.10 of the Revised Code specifying the form of the declaration 54183
or a rescission and procedures by which a declaration or 54184
rescission may be filed. 54185

(M) "Retail natural gas service" means commodity sales 54186
service, ancillary service, natural gas aggregation service, 54187
natural gas marketing service, or natural gas brokerage service. 54188

(N) "Retail natural gas supplier" means any person, as 54189
defined in section 1.59 of the Revised Code, that is engaged on a 54190
for-profit or not-for-profit basis in the business of supplying or 54191
arranging for the supply of a competitive retail natural gas 54192
service to consumers in this state that are not mercantile 54193
customers. "Retail natural gas supplier" includes a marketer, 54194
broker, or aggregator, but excludes a natural gas company, a 54195
governmental aggregator as defined in division (K)(1) or (2) of 54196
this section, an entity described in division ~~(B)~~(A)(2) or ~~(C)~~(3) 54197
of section 4905.02 of the Revised Code, or a billing or collection 54198
agent, and excludes a producer or gatherer of gas to the extent 54199
such producer or gatherer is not a natural gas company under 54200
section 4905.03 of the Revised Code. 54201

(O) "Revenue decoupling mechanism" means a rate design or 54202
other cost recovery mechanism that provides recovery of the fixed 54203
costs of service and a fair and reasonable rate of return, 54204
irrespective of system throughput or volumetric sales. 54205

Sec. 4929.02. (A) It is the policy of this state to, 54206
throughout this state: 54207

(1) Promote the availability to consumers of adequate, 54208
reliable, and reasonably priced natural gas services and goods; 54209

(2) Promote the availability of unbundled and comparable 54210
natural gas services and goods that provide wholesale and retail 54211
consumers with the supplier, price, terms, conditions, and quality 54212
options they elect to meet their respective needs; 54213

(3) Promote diversity of natural gas supplies and suppliers, 54214
by giving consumers effective choices over the selection of those 54215

supplies and suppliers;	54216
(4) Encourage innovation and market access for cost-effective supply- and demand-side natural gas services and goods;	54217 54218
(5) Encourage cost-effective and efficient access to information regarding the operation of the distribution systems of natural gas companies in order to promote effective customer choice of natural gas services and goods;	54219 54220 54221 54222
(6) Recognize the continuing emergence of competitive natural gas markets through the development and implementation of flexible regulatory treatment;	54223 54224 54225
(7) Promote an expeditious transition to the provision of natural gas services and goods in a manner that achieves effective competition and transactions between willing buyers and willing sellers to reduce or eliminate the need for regulation of natural gas services and goods under Chapters 4905. and 4909. of the Revised Code;	54226 54227 54228 54229 54230 54231
(8) Promote effective competition in the provision of natural gas services and goods by avoiding subsidies flowing to or from regulated natural gas services and goods;	54232 54233 54234
(9) Ensure that the risks and rewards of a natural gas company's offering of nonjurisdictional and exempt services and goods do not affect the rates, prices, terms, or conditions of nonexempt, regulated services and goods of a natural gas company and do not affect the financial capability of a natural gas company to comply with the policy of this state specified in this section;	54235 54236 54237 54238 54239 54240 54241
(10) Facilitate the state's competitiveness in the global economy;	54242 54243
(11) Facilitate additional choices for the supply of natural gas for residential consumers, including aggregation;	54244 54245

(12) Promote an alignment of natural gas company interests with consumer interest in energy efficiency and energy conservation.

(B) The public utilities commission and the office of the consumers' counsel shall follow the policy specified in this section in exercising their respective authorities relative to sections 4929.03 to 4929.30 of the Revised Code.

(C) Nothing in Chapter 4929. of the Revised Code shall be construed to alter the public utilities commission's construction or application of division ~~(A)(5)~~(E) of section 4905.03 of the Revised Code.

Sec. 4933.18. (A) In a prosecution for a theft offense, as defined in section 2913.01 of the Revised Code, that involves alleged tampering with a gas, electric, steam, or water meter, conduit, or attachment of a utility that has been disconnected by the utility, proof that a meter, conduit, or attachment of a utility has been tampered with is prima-facie evidence that the person who is obligated to pay for the service rendered through the meter, conduit, or attachment and is in possession or control of the meter, conduit, or attachment at the time the tampering occurred has caused the tampering with intent to commit a theft offense.

In a prosecution for a theft offense, as defined in section 2913.01 of the Revised Code, that involves the alleged reconnection of a gas, electric, steam, or water meter, conduit, or attachment of a utility that has been disconnected by the utility, proof that a meter, conduit, or attachment disconnected by a utility has been reconnected without the consent of the utility is prima-facie evidence that the person in possession or control of the meter, conduit, or attachment at the time of the reconnection has reconnected the meter, conduit, or attachment

with intent to commit a theft offense. 54277

(B) As used in this section: 54278

(1) "Utility" means any electric light company, gas company, 54279
natural gas company, pipe-line company, water-works company, or 54280
heating or cooling company, as defined by division ~~(A)(3), (4),~~ 54281
~~(5), (6), (7)~~(C), (D), (E), (F), (G), or ~~(8)~~(H) of section 4905.03 54282
of the Revised Code, its lessees, trustees, or receivers, or any 54283
similar utility owned or operated by a political subdivision. 54284

(2) "Tamper" means to interfere with, damage, or by-pass a 54285
utility meter, conduit, or attachment with the intent to impede 54286
the correct registration of a meter or the proper functions of a 54287
conduit or attachment so as to reduce the amount of utility 54288
service that is registered on the meter. 54289

Sec. 4933.19. Each electric light company, gas company, 54290
natural gas company, pipe-line company, water-works company, or 54291
heating or cooling company, as defined by division ~~(A)(3), (4),~~ 54292
~~(5), (6), (7)~~(C), (D), (E), (F), (G), or ~~(8)~~(H) of section 54293
4905.03 of the Revised Code, or its lessees, trustees, or 54294
receivers, and each similar utility owned or operated by a 54295
political subdivision shall notify its customers, on an annual 54296
basis, that tampering with or bypassing a meter constitutes a 54297
theft offense that could result in the imposition of criminal 54298
sanctions. 54299

Sec. 4939.01. As used in sections 4939.01 to 4939.08 of the 54300
Revised Code: 54301

(A) "Cable operator," "cable service," and "franchise" have 54302
the same meanings as in the "Cable Communications Policy Act of 54303
1984," 98 Stat. 2779, 47 U.S.C.A. 522. 54304

(B) "Occupy or use" means, with respect to a public way, to 54305
place a tangible thing in a public way for any purpose, including, 54306

but not limited to, constructing, repairing, positioning, 54307
maintaining, or operating lines, poles, pipes, conduits, ducts, 54308
equipment, or other structures, appurtenances, or facilities 54309
necessary for the delivery of public utility services or any 54310
services provided by a cable operator. 54311

(C) "Person" means any natural person, corporation, or 54312
partnership and also includes any governmental entity. 54313

(D) "Public utility" means any company described in section 54314
4905.03 of the Revised Code except in divisions ~~(A)(2)(B)~~ and 54315
~~(9)(I)~~ of that section, which company also is a public utility as 54316
defined in section 4905.02 of the Revised Code; and includes any 54317
electric supplier as defined in section 4933.81 of the Revised 54318
Code. 54319

(E) "Public way" means the surface of, and the space within, 54320
through, on, across, above, or below, any public street, public 54321
road, public highway, public freeway, public lane, public path, 54322
public alley, public court, public sidewalk, public boulevard, 54323
public parkway, public drive, and any other land dedicated or 54324
otherwise designated for a compatible public use, which, on or 54325
after ~~the effective date of this section July 2, 2002,~~ is owned or 54326
controlled by a municipal corporation. "Public way" excludes a 54327
private easement. 54328

(F) "Public way fee" means a fee levied to recover the costs 54329
incurred by a municipal corporation and associated with the 54330
occupancy or use of a public way. 54331

Sec. 4953.04. No union terminal company or corporation shall 54332
engage in the business of a for-hire motor transportation service 54333
carrier, as defined in ~~sections 4905.03, 4921.02, and 4923.02~~ 54334
4921.01 of the Revised Code, over any public highway in this 54335
state, without obtaining authority from the public utilities 54336
commission, and complying with all laws governing every 54337

corporation or company when engaged or proposing to engage in ~~such~~ 54338
the business of a for-hire motor transportation service carrier. 54339

Sec. 4961.03. Any railroad company owning or operating a 54340
railroad in this state may own, control, operate, or manage motor 54341
vehicles for the purpose of transporting persons or property, or 54342
both, upon the public highways for hire, subject to ~~sections~~ 54343
~~4921.02 to 4921.32, inclusive, Chapters 4921. and 4923.~~ of the 54344
Revised Code. Any railroad company may also own and operate 54345
equipment for and engage in the business of aerial transportation. 54346
Any railroad company may acquire, own, and hold capital stock and 54347
securities of corporations organized for or engaged in the 54348
businesses authorized in this section and may operate the 54349
properties, or any part thereof, of such corporations, and may 54350
enter into working arrangements and agreements with such 54351
corporations. 54352

Sec. 4965.54. Any common carrier, railroad, or ~~transportation~~ 54353
~~company~~ motor carrier receiving property at a point within this 54354
state for transportation to a point within this state, shall issue 54355
a receipt or bill of lading for such property and is liable to the 54356
lawful holder of it for any loss, damage, or injury to such 54357
property caused by it or by any common carrier, railroad, or 54358
transportation company to which such property is delivered or over 54359
whose line such property passes. No contract, receipt, rule, or 54360
regulation shall exempt such common carrier, railroad, or 54361
~~transportation company~~ motor carrier from the liability imposed by 54362
this section. This section does not deprive any holder of such 54363
receipt or bill of lading of any remedy or right of action which 54364
~~he~~ the holder has under existing law. 54365

The common carrier, railroad, or ~~transportation company~~ motor 54366
carrier issuing such receipt or bill of lading may recover from 54367
the common carrier, railroad, or ~~transportation company~~ motor 54368

carrier on whose line the loss, damage, or injury was sustained 54369
the amount of such loss, damage, or injury it is required to pay 54370
the owners of such property as is evidenced by any receipt, 54371
judgment, or transcript thereof. 54372

As used in this section, "motor carrier" has the same meaning 54373
as in section 4923.01 of the Revised Code. 54374

Sec. 5101.101. (A) Except as provided in division (B) of this 54375
section, all funds distributed by the department of job and family 54376
services for the purpose of providing family planning services 54377
shall be awarded as follows: 54378

(1) The department shall award funds with foremost priority 54379
given to public entities that provide family planning services and 54380
are eligible for the funds. Such eligible public entities include 54381
community health clinics and similar health facilities operated by 54382
state, county, or local government entities. 54383

(2) To the extent funds are available after the department 54384
determines that all eligible public entities have been fully 54385
funded under division (A)(1) of this section, the department may 54386
award funds to nonpublic entities in the following order of 54387
descending priority: 54388

(a) Federally qualified health centers, as defined in section 54389
3701.047 of the Revised Code; 54390

(b) Nonpublic entities that provide comprehensive primary and 54391
preventive care services in addition to family planning services; 54392

(c) Nonpublic entities that provide family planning services, 54393
but do not provide comprehensive primary and preventive care 54394
services. 54395

(B) Division (A) of this section does not apply to any of the 54396
following: 54397

(1) The medicaid program; 54398

(2) The administration by the department of funds received through Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended, as provided in section 5101.46 of the Revised Code; 54399
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(3) The administration by the department of funds received through Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended, as provided in section 5101.461 of the Revised Code; 54403
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(4) Any federally funded program operated by the department of job and family services that does not allow states to disqualify applicants for funds for the purpose of providing family planning services. 54407
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Sec. 5101.46. (A) As used in this section: 54411

(1) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended. 54412
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(2) "Respective local agency" means, with respect to the department of job and family services, a county department of job and family services; with respect to the department of mental health, a board of alcohol, drug addiction, and mental health services; and with respect to the department of developmental disabilities, a county board of developmental disabilities. 54414
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(3) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined. 54420
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(4) "Affiliate" means an entity that has with another entity a legal relationship created or governed by at least one written instrument demonstrating any of the following: 54426
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<u>(a) Common ownership, management, or control;</u>	54429
<u>(b) A franchise agreement;</u>	54430
<u>(c) The granting or extension of a license or other agreement</u>	54431
<u>that authorizes an entity to use the other entity's brand name,</u>	54432
<u>trademark, service mark, or other registered identification mark.</u>	54433
(B) The departments of job and family services, mental	54434
health, and developmental disabilities, with their respective	54435
local agencies, shall administer the provision of social services	54436
funded through grants made under Title XX. The social services	54437
furnished with Title XX funds shall be directed at the following	54438
goals:	54439
(1) Achieving or maintaining economic self-support to	54440
prevent, reduce, or eliminate dependency;	54441
(2) Achieving or maintaining self-sufficiency, including	54442
reduction or prevention of dependency;	54443
(3) Preventing or remedying neglect, abuse, or exploitation	54444
of children and adults unable to protect their own interests, or	54445
preserving, rehabilitating, or reuniting families;	54446
(4) Preventing or reducing inappropriate institutional care	54447
by providing for community-based care, home-based care, or other	54448
forms of less intensive care;	54449
(5) Securing referral or admission for institutional care	54450
when other forms of care are not appropriate, or providing	54451
services to individuals in institutions.	54452
(C)(1) All federal funds received under Title XX shall be	54453
appropriated as follows:	54454
(a) Seventy-two and one-half per cent to the department of	54455
job and family services;	54456
(b) Twelve and ninety-three one-hundredths <u>one-hundredths</u> per	54457
cent to the department of mental health;	54458

(c) Fourteen and fifty-seven ~~one-hundredths~~ one-hundredths per cent to the department of developmental disabilities. 54459
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(2) Each of the state departments shall, subject to the approval of the controlling board, develop a formula for the distribution of the Title XX funds appropriated to the department to its respective local agencies. The formula developed by each state department shall take into account all of the following for each of its respective local agencies: 54461
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(a) The total population of the area that is served by the respective local agency; 54467
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(b) The percentage of the population in the area served that falls below the federal poverty guidelines; 54469
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(c) The respective local agency's history of and ability to utilize Title XX funds. 54471
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(3) Each of the state departments shall expend for state administrative costs not more than three per cent of the Title XX funds appropriated to the department. 54473
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Each state department shall establish for each of its respective local agencies the maximum percentage of the Title XX funds distributed to the respective local agency that the respective local agency may expend for local administrative costs. The percentage shall be established by rule and shall comply with federal law governing the use of Title XX funds. The rules shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules. 54476
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(4) The department of job and family services shall expend for the training of the following not more than two per cent of the Title XX funds appropriated to the department: 54484
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(a) Employees of county departments of job and family services; 54487
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(b) Providers of services under contract with the state 54489
departments' respective local agencies; 54490

(c) Employees of a public children services agency directly 54491
engaged in providing Title XX services. 54492

(5) The department shall ensure that Title XX funds that are 54493
distributed for the purpose of providing family planning services 54494
are not used to do any of the following: 54495

(a) Perform elective abortions; 54496

(b) Promote elective abortions; 54497

(c) Contract with any entity that performs or promotes 54498
elective abortions; 54499

(d) Become or continue to be an affiliate of any entity that 54500
performs or promotes elective abortions. 54501

(D) The department of job and family services shall prepare a 54502
~~biennial~~ an annual comprehensive Title XX social services plan on 54503
the intended use of Title XX funds. The department shall develop a 54504
method for obtaining public comment during the development of the 54505
plan and following its completion. 54506

For each ~~state~~ federal fiscal year, the department of job and 54507
family services shall prepare a report on the actual use of Title 54508
XX funds. The department shall make the annual report available 54509
for public inspection. 54510

The departments of mental health and developmental 54511
disabilities shall prepare and submit to the department of job and 54512
family services the portions of each ~~biennial~~ annual plan and 54513
~~annual~~ report that apply to services for mental health and mental 54514
retardation and developmental disabilities. Each respective local 54515
agency of the three state departments shall submit information as 54516
necessary for the preparation of ~~biennial~~ annual plans and ~~annual~~ 54517
reports. 54518

(E) Each county department of job and family services shall 54519
adopt a county profile for the administration and provision of 54520
Title XX social services in the county. In developing its county 54521
profile, the county department shall take into consideration the 54522
comments and recommendations received from the public by the 54523
county family services planning committee pursuant to section 54524
329.06 of the Revised Code. As part of its preparation of the 54525
county profile, the county department may prepare a local needs 54526
report analyzing the need for Title XX social services. 54527

The county department shall submit the county profile to the 54528
board of county commissioners for its review. Once the county 54529
profile has been approved by the board, the county department 54530
shall file a copy of the county profile with the department of job 54531
and family services. The department shall approve the county 54532
profile if the department determines the profile provides for the 54533
Title XX social services to meet the goals specified in division 54534
(B) of this section. 54535

(F) Any of the three state departments and their respective 54536
local agencies may require that an entity under contract to 54537
provide social services with Title XX funds submit to an audit on 54538
the basis of alleged misuse or improper accounting of funds. If an 54539
audit is required, the social services provider shall reimburse 54540
the state department or respective local agency for the cost it 54541
incurred in conducting the audit or having the audit conducted. 54542

If an audit demonstrates that a social services provider is 54543
responsible for one or more adverse findings, the provider shall 54544
reimburse the appropriate state department or its respective local 54545
agency the amount of the adverse findings. The amount shall not be 54546
reimbursed with Title XX funds received under this section. The 54547
three state departments and their respective local agencies may 54548
terminate or refuse to enter into a Title XX contract with a 54549
social services provider if there are adverse findings in an audit 54550

that are the responsibility of the provider. 54551

(G) Except with respect to the matters for which each of the 54552
state departments must adopt rules under division (C)(3) of this 54553
section, the department of job and family services may adopt any 54554
rules it considers necessary to implement and carry out the 54555
purposes of this section. Rules governing financial and 54556
operational matters of the department or matters between the 54557
department and county departments of job and family services shall 54558
be adopted as internal management rules in accordance with section 54559
111.15 of the Revised Code. Rules governing eligibility for 54560
services, program participation, and other matters pertaining to 54561
applicants and participants shall be adopted in accordance with 54562
Chapter 119. of the Revised Code. 54563

Sec. 5101.461. (A) As used in this section: 54564

(1) "Title IV-A" means Title IV-A of the "Social Security 54565
Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 54566

(2) "Title XX" has the same meaning as in section 5101.46 of 54567
the Revised Code. 54568

(3) "Affiliate" means an entity that has with another entity 54569
a legal relationship created or governed by at least one written 54570
instrument demonstrating any of the following: 54571

(a) Common ownership, management, or control; 54572

(b) A franchise agreement; 54573

(c) The granting or extension of a license or other agreement 54574
that authorizes an entity to use the other entity's brand name, 54575
trademark, service mark, or other registered identification mark. 54576

(B)(1) To the extent authorized by federal law, the 54577
department of job and family services may use funds received 54578
through the Title IV-A temporary assistance for needy families 54579
block grant for purposes of providing Title XX social services. 54580

The amount used under this section shall not exceed the maximum 54581
amount permitted by federal law. The funds and provision of Title 54582
XX social services with the funds are not subject to section 54583
5101.46 of the Revised Code. 54584

(2) The department shall ensure that funds distributed under 54585
this section for the purpose of providing family planning services 54586
are not used to do any of the following: 54587

(a) Perform elective abortions; 54588

(b) Promote elective abortions; 54589

(c) Contract with any entity that performs or promotes 54590
elective abortions; 54591

(d) Becomes or continue to be an affiliate of any entity that 54592
performs or promotes elective abortions. 54593

(C) The department and any county department of job and 54594
family services may require an entity under contract to provide 54595
Title XX social services with funds used under this section to 54596
submit to an audit on the basis of alleged misuse or improper 54597
accounting of funds. If an audit is required, the social services 54598
provider shall reimburse the state department or county department 54599
for the cost it incurred in conducting the audit or having the 54600
audit conducted. 54601

If an audit demonstrates that a social services provider is 54602
responsible for one or more adverse findings, the provider shall 54603
reimburse the state department or county department the amount of 54604
the adverse findings. The amount shall not be reimbursed with 54605
funds received under this section. The state department and county 54606
departments may terminate or refuse to enter into a contract with 54607
a social services provider to provide services with funds 54608
available pursuant to this section if there are adverse findings 54609
in an audit that are the responsibility of the provider. 54610

(D) The state department of job and family services may adopt 54611
rules to implement and carry out the purposes of this section. 54612
Rules governing financial and operational matters of the 54613
department or matters between the department and county 54614
departments of job and family services shall be adopted as 54615
internal management rules in accordance with section 111.15 of the 54616
Revised Code. Rules governing eligibility for services, program 54617
participation, and other matters pertaining to applicants and 54618
participants shall be adopted in accordance with Chapter 119. of 54619
the Revised Code. 54620

Sec. 5101.60. As used in sections 5101.60 to 5101.71 of the 54621
Revised Code: 54622

(A) "Abuse" means the infliction upon an adult by self or 54623
others of injury, unreasonable confinement, intimidation, or cruel 54624
punishment with resulting physical harm, pain, or mental anguish. 54625

(B) "Adult" means any person sixty years of age or older 54626
within this state who is handicapped by the infirmities of aging 54627
or who has a physical or mental impairment which prevents the 54628
person from providing for the person's own care or protection, and 54629
who resides in an independent living arrangement. An "independent 54630
living arrangement" is a domicile of a person's own choosing, 54631
including, but not limited to, a private home, apartment, trailer, 54632
or rooming house. An "independent living arrangement" includes ~~an~~ 54633
~~adult-care~~ a residential facility licensed ~~pursuant to Chapter~~ 54634
~~5119.~~ under section 5119.22 of the Revised Code that provides 54635
accommodations, supervision, and personal care services for three 54636
to sixteen unrelated adults, but does not include other 54637
institutions or facilities licensed by the state or facilities in 54638
which a person resides as a result of voluntary, civil, or 54639
criminal commitment. 54640

(C) "Caretaker" means the person assuming the responsibility 54641

for the care of an adult on a voluntary basis, by contract, 54642
through receipt of payment for care, as a result of a family 54643
relationship, or by order of a court of competent jurisdiction. 54644

(D) "Court" means the probate court in the county where an 54645
adult resides. 54646

(E) "Emergency" means that the adult is living in conditions 54647
which present a substantial risk of immediate and irreparable 54648
physical harm or death to self or any other person. 54649

(F) "Emergency services" means protective services furnished 54650
to an adult in an emergency. 54651

(G) "Exploitation" means the unlawful or improper act of a 54652
caretaker using an adult or an adult's resources for monetary or 54653
personal benefit, profit, or gain. 54654

(H) "In need of protective services" means an adult known or 54655
suspected to be suffering from abuse, neglect, or exploitation to 54656
an extent that either life is endangered or physical harm, mental 54657
anguish, or mental illness results or is likely to result. 54658

(I) "Incapacitated person" means a person who is impaired for 54659
any reason to the extent that the person lacks sufficient 54660
understanding or capacity to make and carry out reasonable 54661
decisions concerning the person's self or resources, with or 54662
without the assistance of a caretaker. Refusal to consent to the 54663
provision of services shall not be the sole determinative that the 54664
person is incapacitated. "Reasonable decisions" are decisions made 54665
in daily living which facilitate the provision of food, shelter, 54666
clothing, and health care necessary for life support. 54667

(J) "Mental illness" means a substantial disorder of thought, 54668
mood, perception, orientation, or memory that grossly impairs 54669
judgment, behavior, capacity to recognize reality, or ability to 54670
meet the ordinary demands of life. 54671

(K) "Neglect" means the failure of an adult to provide for self the goods or services necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services.

(L) "Peace officer" means a peace officer as defined in section 2935.01 of the Revised Code.

(M) "Physical harm" means bodily pain, injury, impairment, or disease suffered by an adult.

(N) "Protective services" means services provided by the county department of job and family services or its designated agency to an adult who has been determined by evaluation to require such services for the prevention, correction, or discontinuance of an act of as well as conditions resulting from abuse, neglect, or exploitation. Protective services may include, but are not limited to, case work services, medical care, mental health services, legal services, fiscal management, home health care, homemaker services, housing-related services, guardianship services, and placement services as well as the provision of such commodities as food, clothing, and shelter.

(O) "Working day" means Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a holiday as defined in section 1.14 of the Revised Code.

Sec. 5101.61. (A) As used in this section:

(1) "Senior service provider" means any person who provides care or services to a person who is an adult as defined in division (B) of section 5101.60 of the Revised Code.

(2) "Ambulatory health facility" means a nonprofit, public or proprietary freestanding organization or a unit of such an agency or organization that:

(a) Provides preventive, diagnostic, therapeutic,

rehabilitative, or palliative items or services furnished to an 54702
outpatient or ambulatory patient, by or under the direction of a 54703
physician or dentist in a facility which is not a part of a 54704
hospital, but which is organized and operated to provide medical 54705
care to outpatients; 54706

(b) Has health and medical care policies which are developed 54707
with the advice of, and with the provision of review of such 54708
policies, an advisory committee of professional personnel, 54709
including one or more physicians, one or more dentists, if dental 54710
care is provided, and one or more registered nurses; 54711

(c) Has a medical director, a dental director, if dental care 54712
is provided, and a nursing director responsible for the execution 54713
of such policies, and has physicians, dentists, nursing, and 54714
ancillary staff appropriate to the scope of services provided; 54715

(d) Requires that the health care and medical care of every 54716
patient be under the supervision of a physician, provides for 54717
medical care in a case of emergency, has in effect a written 54718
agreement with one or more hospitals and other centers or clinics, 54719
and has an established patient referral system to other resources, 54720
and a utilization review plan and program; 54721

(e) Maintains clinical records on all patients; 54722

(f) Provides nursing services and other therapeutic services 54723
in accordance with programs and policies, with such services 54724
supervised by a registered professional nurse, and has a 54725
registered professional nurse on duty at all times of clinical 54726
operations; 54727

(g) Provides approved methods and procedures for the 54728
dispensing and administration of drugs and biologicals; 54729

(h) Has established an accounting and record keeping system 54730
to determine reasonable and allowable costs; 54731

(i) "Ambulatory health facilities" also includes an 54732
alcoholism treatment facility approved by the joint commission on 54733
accreditation of healthcare organizations as an alcoholism 54734
treatment facility or certified by the department of alcohol and 54735
drug addiction services, and such facility shall comply with other 54736
provisions of this division not inconsistent with such 54737
accreditation or certification. 54738

(3) "Community mental health facility" means a facility which 54739
provides community mental health services and is included in the 54740
comprehensive mental health plan for the alcohol, drug addiction, 54741
and mental health service district in which it is located. 54742

(4) "Community mental health service" means services, other 54743
than inpatient services, provided by a community mental health 54744
facility. 54745

(5) "Home health agency" means an institution or a distinct 54746
part of an institution operated in this state which: 54747

(a) Is primarily engaged in providing home health services; 54748

(b) Has home health policies which are established by a group 54749
of professional personnel, including one or more duly licensed 54750
doctors of medicine or osteopathy and one or more registered 54751
professional nurses, to govern the home health services it 54752
provides and which includes a requirement that every patient must 54753
be under the care of a duly licensed doctor of medicine or 54754
osteopathy; 54755

(c) Is under the supervision of a duly licensed doctor of 54756
medicine or doctor of osteopathy or a registered professional 54757
nurse who is responsible for the execution of such home health 54758
policies; 54759

(d) Maintains comprehensive records on all patients; 54760

(e) Is operated by the state, a political subdivision, or an 54761

agency of either, or is operated not for profit in this state and 54762
is licensed or registered, if required, pursuant to law by the 54763
appropriate department of the state, county, or municipality in 54764
which it furnishes services; or is operated for profit in this 54765
state, meets all the requirements specified in divisions (A)(5)(a) 54766
to (d) of this section, and is certified under Title XVIII of the 54767
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as 54768
amended. 54769

(6) "Home health service" means the following items and 54770
services, provided, except as provided in division (A)(6)(g) of 54771
this section, on a visiting basis in a place of residence used as 54772
the patient's home: 54773

(a) Nursing care provided by or under the supervision of a 54774
registered professional nurse; 54775

(b) Physical, occupational, or speech therapy ordered by the 54776
patient's attending physician; 54777

(c) Medical social services performed by or under the 54778
supervision of a qualified medical or psychiatric social worker 54779
and under the direction of the patient's attending physician; 54780

(d) Personal health care of the patient performed by aides in 54781
accordance with the orders of a doctor of medicine or osteopathy 54782
and under the supervision of a registered professional nurse; 54783

(e) Medical supplies and the use of medical appliances; 54784

(f) Medical services of interns and residents-in-training 54785
under an approved teaching program of a nonprofit hospital and 54786
under the direction and supervision of the patient's attending 54787
physician; 54788

(g) Any of the foregoing items and services which: 54789

(i) Are provided on an outpatient basis under arrangements 54790
made by the home health agency at a hospital or skilled nursing 54791

facility; 54792

(ii) Involve the use of equipment of such a nature that the 54793
items and services cannot readily be made available to the patient 54794
in the patient's place of residence, or which are furnished at the 54795
hospital or skilled nursing facility while the patient is there to 54796
receive any item or service involving the use of such equipment. 54797

Any attorney, physician, osteopath, podiatrist, chiropractor, 54798
dentist, psychologist, any employee of a hospital as defined in 54799
section 3701.01 of the Revised Code, any nurse licensed under 54800
Chapter 4723. of the Revised Code, any employee of an ambulatory 54801
health facility, any employee of a home health agency, any 54802
employee of ~~an adult care~~ a residential facility ~~as defined in~~ 54803
licensed under section ~~5119.70~~ 5119.22 of the Revised Code ~~that~~ 54804
provides accommodations, supervision, and personal care services 54805
for three to sixteen unrelated adults, any employee of a nursing 54806
home, residential care facility, or home for the aging, as defined 54807
in section 3721.01 of the Revised Code, any senior service 54808
provider, any peace officer, coroner, ~~clergyman~~ member of the 54809
clergy, any employee of a community mental health facility, and 54810
any person engaged in social work or counseling having reasonable 54811
cause to believe that an adult is being abused, neglected, or 54812
exploited, or is in a condition which is the result of abuse, 54813
neglect, or exploitation shall immediately report such belief to 54814
the county department of job and family services. This section 54815
does not apply to employees of any hospital or public hospital as 54816
defined in section 5122.01 of the Revised Code. 54817

(B) Any person having reasonable cause to believe that an 54818
adult has suffered abuse, neglect, or exploitation may report, or 54819
cause reports to be made of such belief to the department. 54820

(C) The reports made under this section shall be made orally 54821
or in writing except that oral reports shall be followed by a 54822
written report if a written report is requested by the department. 54823

Written reports shall include: 54824

(1) The name, address, and approximate age of the adult who 54825
is the subject of the report; 54826

(2) The name and address of the individual responsible for 54827
the adult's care, if any individual is, and if the individual is 54828
known; 54829

(3) The nature and extent of the alleged abuse, neglect, or 54830
exploitation of the adult; 54831

(4) The basis of the reporter's belief that the adult has 54832
been abused, neglected, or exploited. 54833

(D) Any person with reasonable cause to believe that an adult 54834
is suffering abuse, neglect, or exploitation who makes a report 54835
pursuant to this section or who testifies in any administrative or 54836
judicial proceeding arising from such a report, or any employee of 54837
the state or any of its subdivisions who is discharging 54838
responsibilities under section 5101.62 of the Revised Code shall 54839
be immune from civil or criminal liability on account of such 54840
investigation, report, or testimony, except liability for perjury, 54841
unless the person has acted in bad faith or with malicious 54842
purpose. 54843

(E) No employer or any other person with the authority to do 54844
so shall discharge, demote, transfer, prepare a negative work 54845
performance evaluation, or reduce benefits, pay, or work 54846
privileges, or take any other action detrimental to an employee or 54847
in any way retaliate against an employee as a result of the 54848
employee's having filed a report under this section. 54849

(F) Neither the written or oral report provided for in this 54850
section nor the investigatory report provided for in section 54851
5101.62 of the Revised Code shall be considered a public record as 54852
defined in section 149.43 of the Revised Code. Information 54853
contained in the report shall upon request be made available to 54854

the adult who is the subject of the report, to agencies authorized 54855
by the department to receive information contained in the report, 54856
and to legal counsel for the adult. 54857

Sec. 5104.012. (A)(1) At the times specified in this 54858
division, the administrator of a child day-care center or a type A 54859
family day-care home shall request the superintendent of the 54860
bureau of criminal identification and investigation to conduct a 54861
criminal records check with respect to any applicant who has 54862
applied to the center or type A home for employment as a person 54863
responsible for the care, custody, or control of a child. 54864

The administrator shall request a criminal records check 54865
pursuant to this division at the time of the applicant's initial 54866
application for employment and every four years thereafter. When 54867
the administrator requests pursuant to this division a criminal 54868
records check for an applicant at the time of the applicant's 54869
initial application for employment, the administrator shall 54870
request that the superintendent obtain information from the 54871
federal bureau of investigation as a part of the criminal records 54872
check for the applicant, including fingerprint-based checks of 54873
national crime information databases as described in 42 U.S.C. 54874
671, for the person subject to the criminal records check. In all 54875
other cases in which the administrator requests a criminal records 54876
check for an applicant pursuant to this division, the 54877
administrator may request that the superintendent include 54878
information from the federal bureau of investigation in the 54879
criminal records check, including fingerprint-based checks of 54880
national crime information databases as described in 42 U.S.C. 54881
671. 54882

(2) A person required by division (A)(1) of this section to 54883
request a criminal records check shall provide to each applicant a 54884
copy of the form prescribed pursuant to division (C)(1) of section 54885

109.572 of the Revised Code, provide to each applicant a standard 54886
impression sheet to obtain fingerprint impressions prescribed 54887
pursuant to division (C)(2) of section 109.572 of the Revised 54888
Code, obtain the completed form and impression sheet from each 54889
applicant, and forward the completed form and impression sheet to 54890
the superintendent of the bureau of criminal identification and 54891
investigation at the time the person requests a criminal records 54892
check pursuant to division (A)(1) of this section. On and after 54893
August 14, 2008, the administrator of a child day-care center or a 54894
type A family day-care home shall review the results of the 54895
criminal records check before the applicant has sole 54896
responsibility for the care, custody, or control of any child. 54897

(3) An applicant who receives pursuant to division (A)(2) of 54898
this section a copy of the form prescribed pursuant to division 54899
(C)(1) of section 109.572 of the Revised Code and a copy of an 54900
impression sheet prescribed pursuant to division (C)(2) of that 54901
section and who is requested to complete the form and provide a 54902
set of fingerprint impressions shall complete the form or provide 54903
all the information necessary to complete the form and shall 54904
provide the impression sheet with the impressions of the 54905
applicant's fingerprints. If an applicant, upon request, fails to 54906
provide the information necessary to complete the form or fails to 54907
provide impressions of the applicant's fingerprints, the center or 54908
type A home shall not employ that applicant for any position for 54909
which a criminal records check is required by division (A)(1) of 54910
this section. 54911

(B)(1) Except as provided in rules adopted under division (E) 54912
of this section, no child day-care center or type A family 54913
day-care home shall employ or contract with another entity for the 54914
services of a person as a person responsible for the care, 54915
custody, or control of a child if the person previously has been 54916
convicted of or pleaded guilty to any of the violations described 54917

in division (A)~~(9)~~(6) of section 109.572 of the Revised Code. 54918

(2) A child day-care center or type A family day-care home 54919
may employ an applicant conditionally until the criminal records 54920
check required by this section is completed and the center or home 54921
receives the results of the criminal records check. If the results 54922
of the criminal records check indicate that, pursuant to division 54923
(B)(1) of this section, the applicant does not qualify for 54924
employment, the center or home shall release the applicant from 54925
employment. 54926

(C)(1) Each child day-care center and type A family day-care 54927
home shall pay to the bureau of criminal identification and 54928
investigation the fee prescribed pursuant to division (C)(3) of 54929
section 109.572 of the Revised Code for each criminal records 54930
check conducted in accordance with that section upon the request 54931
pursuant to division (A)(1) of this section of the administrator 54932
or provider of the center or home. 54933

(2) A child day-care center and type A family day-care home 54934
may charge an applicant a fee for the costs it incurs in obtaining 54935
a criminal records check under this section. A fee charged under 54936
this division shall not exceed the amount of fees the center or 54937
home pays under division (C)(1) of this section. If a fee is 54938
charged under this division, the center or home shall notify the 54939
applicant at the time of the applicant's initial application for 54940
employment of the amount of the fee and that, unless the fee is 54941
paid, the center or type A home will not consider the applicant 54942
for employment. 54943

(D) The report of any criminal records check conducted by the 54944
bureau of criminal identification and investigation in accordance 54945
with section 109.572 of the Revised Code and pursuant to a request 54946
under division (A)(1) of this section is not a public record for 54947
the purposes of section 149.43 of the Revised Code and shall not 54948
be made available to any person other than the applicant who is 54949

the subject of the criminal records check or the applicant's 54950
representative; the center or type A home requesting the criminal 54951
records check or its representative; the department of job and 54952
family services or a county department of job and family services; 54953
and any court, hearing officer, or other necessary individual 54954
involved in a case dealing with the denial of employment to the 54955
applicant. 54956

(E) The director of job and family services shall adopt rules 54957
pursuant to Chapter 119. of the Revised Code to implement this 54958
section, including rules specifying circumstances under which a 54959
center or home may hire a person who has been convicted of an 54960
offense listed in division (B)(1) of this section but who meets 54961
standards in regard to rehabilitation set by the department. 54962

(F) Any person required by division (A)(1) of this section to 54963
request a criminal records check shall inform each person, at the 54964
time of the person's initial application for employment, that the 54965
person is required to provide a set of impressions of the person's 54966
fingerprints and that a criminal records check is required to be 54967
conducted and satisfactorily completed in accordance with section 54968
109.572 of the Revised Code if the person comes under final 54969
consideration for appointment or employment as a precondition to 54970
employment for that position. 54971

(G) As used in this section: 54972

(1) "Applicant" means a person who is under final 54973
consideration for appointment to or employment in a position with 54974
a child day-care center or a type A family day-care home as a 54975
person responsible for the care, custody, or control of a child; 54976
an in-home aide certified pursuant to section 5104.12 of the 54977
Revised Code; or any person who would serve in any position with a 54978
child day-care center or a type A family day-care home as a person 54979
responsible for the care, custody, or control of a child pursuant 54980
to a contract with another entity. 54981

(2) "Criminal records check" has the same meaning as in 54982
section 109.572 of the Revised Code. 54983

Sec. 5104.013. (A)(1) At the times specified in division 54984
(A)(3) of this section, the director of job and family services, 54985
as part of the process of licensure of child day-care centers and 54986
type A family day-care homes, shall request the superintendent of 54987
the bureau of criminal identification and investigation to conduct 54988
a criminal records check with respect to the following persons: 54989

(a) Any owner, licensee, or administrator of a child day-care 54990
center; 54991

(b) Any owner, licensee, or administrator of a type A family 54992
day-care home and any person eighteen years of age or older who 54993
resides in a type A family day-care home. 54994

(2) At the times specified in division (A)(3) of this 54995
section, the director of a county department of job and family 54996
services, as part of the process of certification of type B family 54997
day-care homes, shall request the superintendent of the bureau of 54998
criminal identification and investigation to conduct a criminal 54999
records check with respect to any authorized provider of a 55000
certified type B family day-care home and any person eighteen 55001
years of age or older who resides in a certified type B family 55002
day-care home. 55003

(3) The director of job and family services shall request a 55004
criminal records check pursuant to division (A)(1) of this section 55005
at the time of the initial application for licensure and every 55006
four years thereafter. The director of a county department of job 55007
and family services shall request a criminal records check 55008
pursuant to division (A)(2) of this section at the time of the 55009
initial application for certification and every four years 55010
thereafter at the time of a certification renewal. When the 55011
director of job and family services or the director of a county 55012

department of job and family services requests pursuant to 55013
division (A)(1) or (2) of this section a criminal records check 55014
for a person at the time of the person's initial application for 55015
licensure or certification, the director shall request that the 55016
superintendent of the bureau of criminal identification and 55017
investigation obtain information from the federal bureau of 55018
investigation as a part of the criminal records check for the 55019
person, including fingerprint-based checks of national crime 55020
information databases as described in 42 U.S.C. 671 for the person 55021
subject to the criminal records check. In all other cases in which 55022
the director of job and family services or the director of a 55023
county department of job and family services requests a criminal 55024
records check for an applicant pursuant to division (A)(1) or (2) 55025
of this section, the director may request that the superintendent 55026
include information from the federal bureau of investigation in 55027
the criminal records check, including fingerprint-based checks of 55028
national crime information databases as described in 42 U.S.C. 55029
671. 55030

(4) The director of job and family services shall review the 55031
results of a criminal records check subsequent to a request made 55032
pursuant to divisions (A)(1) and (3) of this section prior to 55033
approval of a license. The director of a county department of job 55034
and family services shall review the results of a criminal records 55035
check subsequent to a request made pursuant to divisions (A)(2) 55036
and (3) of this section prior to approval of certification. 55037

(B) The director of job and family services or the director 55038
of a county department of job and family services shall provide to 55039
each person for whom a criminal records check is required under 55040
this section a copy of the form prescribed pursuant to division 55041
(C)(1) of section 109.572 of the Revised Code and a standard 55042
impression sheet to obtain fingerprint impressions prescribed 55043
pursuant to division (C)(2) of that section, obtain the completed 55044

form and impression sheet from that person, and forward the 55045
completed form and impression sheet to the superintendent of the 55046
bureau of criminal identification and investigation. 55047

(C) A person who receives pursuant to division (B) of this 55048
section a copy of the form and standard impression sheet described 55049
in that division and who is requested to complete the form and 55050
provide a set of fingerprint impressions shall complete the form 55051
or provide all the information necessary to complete the form and 55052
shall provide the impression sheet with the impressions of the 55053
person's fingerprints. If the person, upon request, fails to 55054
provide the information necessary to complete the form or fails to 55055
provide impressions of the person's fingerprints, the director may 55056
consider the failure as a reason to deny licensure or 55057
certification. 55058

(D) Except as provided in rules adopted under division (G) of 55059
this section, the director of job and family services shall not 55060
grant a license to a child day-care center or type A family 55061
day-care home and a county director of job and family services 55062
shall not certify a type B family day-care home if a person for 55063
whom a criminal records check was required in connection with the 55064
center or home previously has been convicted of or pleaded guilty 55065
to any of the violations described in division (A)~~(9)~~(6) of 55066
section 109.572 of the Revised Code. 55067

(E) Each child day-care center, type A family day-care home, 55068
and type B family day-care home shall pay to the bureau of 55069
criminal identification and investigation the fee prescribed 55070
pursuant to division (C)(3) of section 109.572 of the Revised Code 55071
for each criminal records check conducted in accordance with that 55072
section upon a request made pursuant to division (A) of this 55073
section. 55074

(F) The report of any criminal records check conducted by the 55075
bureau of criminal identification and investigation in accordance 55076

with section 109.572 of the Revised Code and pursuant to a request 55077
made under division (A) of this section is not a public record for 55078
the purposes of section 149.43 of the Revised Code and shall not 55079
be made available to any person other than the person who is the 55080
subject of the criminal records check or the person's 55081
representative, the director of job and family services, the 55082
director of a county department of job and family services, the 55083
center, type A home, or type B home involved, and any court, 55084
hearing officer, or other necessary individual involved in a case 55085
dealing with a denial of licensure or certification related to the 55086
criminal records check. 55087

(G) The director of job and family services shall adopt rules 55088
pursuant to Chapter 119. of the Revised Code to implement this 55089
section, including rules specifying exceptions to the prohibition 55090
in division (D) of this section for persons who have been 55091
convicted of an offense listed in that division but who meet 55092
standards in regard to rehabilitation set by the ~~department~~ 55093
director. 55094

(H) As used in this section, "criminal records check" has the 55095
same meaning as in section 109.572 of the Revised Code. 55096

Sec. 5104.051. (A)(1) The department of commerce is 55097
responsible for the inspections of child day-care centers as 55098
required by division (A)(1) of section 5104.05 of the Revised 55099
Code. Where there is a municipal, township, or county building 55100
department certified under section 3781.10 of the Revised Code to 55101
exercise enforcement authority with respect to the category of 55102
building occupancy which includes day-care centers, all 55103
inspections required under division (A)(1) of section 5104.05 of 55104
the Revised Code shall be made by that department according to the 55105
standards established by the board of building standards. 55106
Inspections in areas of the state where there is no municipal, 55107

township, or county building department certified under section 55108
3781.10 of the Revised Code to exercise enforcement authority with 55109
respect to the category of building occupancy which includes 55110
day-care centers shall be made by personnel of the department of 55111
commerce. Inspections of centers shall be contingent upon payment 55112
of a fee by the applicant to the department having jurisdiction to 55113
inspect. 55114

(2) The department of commerce is responsible for the 55115
inspections of type A family day-care homes as required by 55116
division (B)(3) of section 5104.05 of the Revised Code. Where 55117
there is a municipal, township, or county building department 55118
certified under section 3781.10 of the Revised Code to exercise 55119
enforcement authority with respect to the category of building 55120
occupancy which includes type A homes, all inspections required 55121
under division (B)(3) of section 5104.05 of the Revised Code shall 55122
be made by that department according to the standards established 55123
by the board of building standards. Inspections in areas of the 55124
state where there is no municipal, township, or county building 55125
department certified under section 3781.10 of the Revised Code to 55126
exercise enforcement authority with respect to the category of 55127
building occupancy which includes type A homes shall be made by 55128
personnel of the department of commerce. Inspections of type A 55129
homes shall be contingent upon payment of a fee by the applicant 55130
to the department having jurisdiction to inspect. 55131

(B) The state fire marshal is responsible for the inspections 55132
required by divisions (A)(2) and (B)(1) of section 5104.05 of the 55133
Revised Code. In municipal corporations and in townships outside 55134
municipal corporations where there is a fire prevention official, 55135
the inspections shall be made by the fire chief or the fire 55136
prevention official under the supervision of and according to the 55137
standards established by the state fire marshal. In townships 55138
outside municipal corporations where there is no fire prevention 55139

official, inspections shall be made by the employees of the state 55140
fire marshal. 55141

(C) The state fire marshal shall enforce all statutes and 55142
rules pertaining to fire safety and fire prevention in child 55143
day-care centers and type A family day-care homes. In the event of 55144
a dispute between the state fire marshal and any other responsible 55145
officer under sections 5104.05 and 5104.051 of the Revised Code 55146
with respect to the interpretation or application of a specific 55147
fire safety statute or rule, the interpretation of the state fire 55148
marshal shall prevail. 55149

(D) As used in this division, "licensor" has the same meaning 55150
as in section 3717.01 of the Revised Code. 55151

The licensor for food service operations in the city or 55152
general health district in which the center is located is 55153
responsible for the inspections required under Chapter 3717. of 55154
the Revised Code. 55155

(E) Any moneys collected by the department of commerce under 55156
this section shall be paid into the state treasury to the credit 55157
of the ~~labor~~ industrial compliance operating fund created in 55158
section 121.084 of the Revised Code. 55159

Sec. 5104.09. (A)(1) Except as provided in rules adopted 55160
pursuant to division (D) of this section, no individual who has 55161
been convicted of or pleaded guilty to a violation described in 55162
division (A)~~(9)~~(6) of section 109.572 of the Revised Code, a 55163
violation of section 2905.11, 2909.02, 2909.03, 2909.04, 2909.05, 55164
2917.01, 2917.02, 2917.03, 2917.31, 2921.03, 2921.34, or 2921.35 55165
of the Revised Code or a violation of an existing or former law or 55166
ordinance of any municipal corporation, this state, any other 55167
state, or the United States that is substantially equivalent to 55168
any of those violations, or two violations of section 4511.19 of 55169
the Revised Code during operation of the center or home shall be 55170

certified as an in-home aide or be employed in any capacity in or 55171
own or operate a child day-care center, type A family day-care 55172
home, type B family day-care home, or certified type B family 55173
day-care home. 55174

(2) Each employee of a child day-care center and type A home 55175
and every person eighteen years of age or older residing in a type 55176
A home shall sign a statement on forms prescribed by the director 55177
of job and family services attesting to the fact that the employee 55178
or resident person has not been convicted of or pleaded guilty to 55179
any offense set forth in division (A)(1) of this section and that 55180
no child has been removed from the employee's or resident person's 55181
home pursuant to section 2151.353 of the Revised Code. Each 55182
licensee of a type A home shall sign a statement on a form 55183
prescribed by the director attesting to the fact that no person 55184
who resides at the type A home and who is under the age of 55185
eighteen has been adjudicated a delinquent child for committing a 55186
violation of any section listed in division (A)(1) of this 55187
section. The statements shall be kept on file at the center or 55188
type A home. 55189

(3) Each in-home aide and every person eighteen years of age 55190
or older residing in a certified type B home shall sign a 55191
statement on forms prescribed by the director of job and family 55192
services attesting that the aide or resident person has not been 55193
convicted of or pleaded guilty to any offense set forth in 55194
division (A)(1) of this section and that no child has been removed 55195
from the aide's or resident person's home pursuant to section 55196
2151.353 of the Revised Code. Each authorized provider shall sign 55197
a statement on forms prescribed by the director attesting that the 55198
provider has not been convicted of or pleaded guilty to any 55199
offense set forth in division (A)(1) of this section and that no 55200
child has been removed from the provider's home pursuant to 55201
section 2151.353 of the Revised Code. Each authorized provider 55202

shall sign a statement on a form prescribed by the director 55203
attesting to the fact that no person who resides at the certified 55204
type B home and who is under the age of eighteen has been 55205
adjudicated a delinquent child for committing a violation of any 55206
section listed in division (A)(1) of this section. The statements 55207
shall be kept on file at the county department of job and family 55208
services. 55209

(4) Each administrator and licensee of a center or type A 55210
home shall sign a statement on a form prescribed by the director 55211
of job and family services attesting that the administrator or 55212
licensee has not been convicted of or pleaded guilty to any 55213
offense set forth in division (A)(1) of this section and that no 55214
child has been removed from the administrator's or licensee's home 55215
pursuant to section 2151.353 of the Revised Code. The statement 55216
shall be kept on file at the center or type A home. 55217

(B) No in-home aide, no administrator, licensee, authorized 55218
provider, or employee of a center, type A home, or certified type 55219
B home, and no person eighteen years of age or older residing in a 55220
type A home or certified type B home shall withhold information 55221
from, or falsify information on, any statement required pursuant 55222
to division (A)(2), (3), or (4) of this section. 55223

(C) No administrator, licensee, or child-care staff member 55224
shall discriminate in the enrollment of children in a child 55225
day-care center upon the basis of race, color, religion, sex, or 55226
national origin. 55227

(D) The director of job and family services shall adopt rules 55228
pursuant to Chapter 119. of the Revised Code to implement this 55229
section, including rules specifying exceptions to the prohibition 55230
in division (A) of this section for persons who have been 55231
convicted of an offense listed in that division but meet 55232
rehabilitation standards set by the ~~department~~ director. 55233

Sec. 5104.37. (A) As used in this section, "eligible provider" means an individual or entity eligible to provide publicly funded child care pursuant to section 5104.31 of the Revised Code. 55234
55235
55236
55237

(B) The department of job and family services may withhold any money due under this chapter and recover through any appropriate method any money erroneously paid under this chapter if evidence exists of less than full compliance with this chapter and any rules adopted under it. 55238
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55240
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(C) Notwithstanding any other provision of this chapter to the contrary, the department shall take action against an eligible provider as described in this section. 55243
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55245

(D) The department immediately shall suspend a contract entered into with an eligible provider under section 5104.32 of the Revised Code when the department initiates an investigation concerning the eligible provider for either of the following reasons: 55246
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(1) The eligible provider receives an improper child care payment. 55251
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(2) The department receives notice and a copy of an indictment, information, or complaint charging the eligible provider or the owner or operator of the provider with committing any of the following: 55253
55254
55255
55256

(a) An act that is a felony or misdemeanor relating to providing or billing for publicly funded child care or providing management or administrative services relating to providing publicly funded child care; 55257
55258
55259
55260

(b) An act that would constitute an offense described in section 5104.09 of the Revised Code. 55261
55262

(E)(1) Except as provided in division (E)(2) of this section, 55263

the suspension of a contract under division (D) of this section 55264
shall continue until the department completes its investigation or 55265
all criminal charges are disposed of through dismissal, a finding 55266
of not guilty, conviction, or a plea of guilty. 55267

(2) If the department initiates the termination of a contract 55268
that has been suspended pursuant to division (D) of this section, 55269
the suspension shall continue until the termination process is 55270
completed. 55271

(F) An eligible provider shall not provide publicly funded 55272
child care while the provider's contract is under suspension 55273
pursuant to division (D) of this section. As of the date the 55274
eligible provider's contract is suspended, the department shall 55275
withhold payment to the eligible provider for publicly funded 55276
child care. 55277

(G) Not later than five days after suspending an eligible 55278
provider's contract pursuant to division (D) of this section, the 55279
department shall notify the eligible provider. The notice shall 55280
include all of the following: 55281

(1) A description of the investigation or indictment, 55282
information, or complaint that resulted in the suspension, which 55283
need not disclose specific information concerning any ongoing 55284
administrative or criminal investigation; 55285

(2) A statement that the eligible provider is prohibited from 55286
providing publicly funded child care while the contract is under 55287
suspension; 55288

(3) A statement that the suspension will continue until the 55289
department completes its investigation or all criminal charges are 55290
disposed of through dismissal, a finding of not guilty, 55291
conviction, or a plea of guilty, and that if the department 55292
initiates the termination of the contract, the suspension will 55293
continue until the termination process is completed. 55294

Sec. 5107.05. The director of job and family services shall 55295
adopt rules to implement this chapter. The rules shall be 55296
consistent with Title IV-A, Title IV-D, federal regulations, state 55297
law, the Title IV-A state plan submitted to the United States 55298
secretary of health and human services under section 5101.80 of 55299
the Revised Code, amendments to the plan, and waivers granted by 55300
the United States secretary. Rules governing eligibility, program 55301
participation, and other applicant and participant requirements 55302
shall be adopted in accordance with Chapter 119. of the Revised 55303
Code. Rules governing financial and other administrative 55304
requirements applicable to the department of job and family 55305
services and county departments of job and family services shall 55306
be adopted in accordance with section 111.15 of the Revised Code. 55307

(A) The rules shall specify, establish, or govern all of the 55308
following: 55309

(1) A payment standard for Ohio works first based on federal 55310
and state appropriations that is increased in accordance with 55311
section 5107.04 of the Revised Code; 55312

(2) For the purpose of section 5107.04 of the Revised Code, 55313
the method of determining the amount of cash assistance an 55314
assistance group receives under Ohio works first; 55315

(3) Requirements for initial and continued eligibility for 55316
Ohio works first, including requirements regarding income, 55317
citizenship, age, residence, and assistance group composition; 55318

(4) For the purpose of section 5107.12 of the Revised Code, 55319
application and verification procedures, including the minimum 55320
information an application must contain; 55321

(5) The extent to which a participant of Ohio works first 55322
must notify, pursuant to section 5107.12 of the Revised Code, a 55323
county department of job and family services of additional income 55324

not previously reported to the county department; 55325

(6) For the purpose of section 5107.16 of the Revised Code, 55326
all of the following: 55327

(a) Standards for the determination of good cause for failure 55328
or refusal to comply in full with a provision of a 55329
self-sufficiency contract; 55330

(b) The compliance form a member of an assistance group may 55331
complete to indicate willingness to come into full compliance with 55332
a provision of a self-sufficiency contract; 55333

(c) The manner by which the compliance form is to be 55334
completed and provided to a county department of job and family 55335
services. 55336

(7) The department of job and family services providing 55337
written notice of a sanction under section 5107.161 of the Revised 55338
Code; 55339

(8) For the purpose of division (A)(2) of section 5107.17 of 55340
the Revised Code, the period of time by which a county department 55341
of job and family services is to receive a compliance form 55342
established in rules adopted under division (A)(6)(b) of this 55343
section; 55344

(9) Requirements for the collection and distribution of 55345
support payments owed participants of Ohio works first pursuant to 55346
section 5107.20 of the Revised Code; 55347

(10) For the purpose of section 5107.22 of the Revised Code, 55348
what constitutes cooperating in establishing a minor child's 55349
paternity or establishing, modifying, or enforcing a child support 55350
order and good cause for failure or refusal to cooperate; 55351

(11) The requirements governing the LEAP program, including 55352
the definitions of "equivalent of a high school diploma" and "good 55353
cause," and the incentives provided under the LEAP program; 55354

(12) If the director implements section 5107.301 of the Revised Code, the requirements governing the award provided under that section, including the form that the award is to take and requirements an individual must satisfy to receive the award;

(13) Circumstances under which a county department of job and family services may exempt a minor head of household or adult from participating in a work activity or developmental activity for all or some of the weekly hours otherwise required by section 5107.43 of the Revised Code.

(14) The maximum amount of time the department will subsidize positions created by state agencies and political subdivisions under division (C) of section 5107.52 of the Revised Code;

(15) The implementation of sections 5107.71 to 5107.717 of the Revised Code by county departments of job and family services;

(16) A domestic violence screening process to be used for the purpose of division (A) of section 5107.71 of the Revised Code;

(17) The minimum frequency with which county departments of job and family services must redetermine a member of an assistance group's need for a waiver issued under section 5107.714 of the Revised Code.

(B) The rules adopted under division (A)(3) of this section regarding income shall specify what is countable income, gross earned income, and gross unearned income for the purpose of section 5107.10 of the Revised Code.

The rules adopted under division (A)(10) of this section shall be consistent with 42 U.S.C. 654(29).

The rules adopted under division (A)(13) of this section shall specify that the circumstances include that a school or place of work is closed due to a holiday or weather or other emergency and that an employer grants the minor head of household

or adult leave for illness or earned vacation. 55385

(C) The rules may provide that a county department of job and 55386
family services is not required to take action under section 55387
5107.76 of the Revised Code to recover an erroneous payment ~~that~~ 55388
~~is below an amount the department specifies~~ under circumstances 55389
the rules specify. 55390

Sec. 5111.031. (A) As used in this section: 55391

(1) "Independent provider" has the same meaning as in section 55392
5111.034 of the Revised Code. 55393

(2) "Intermediate care facility for the mentally retarded" 55394
and "nursing facility" have the same meanings as in section 55395
5111.20 of the Revised Code. 55396

(3) "Noninstitutional medicaid provider" means any person or 55397
entity with a medicaid provider agreement other than a hospital, 55398
nursing facility, or intermediate care facility for the mentally 55399
retarded. 55400

(4) "Owner" means any person having at least five per cent 55401
ownership in a noninstitutional medicaid provider. 55402

(B) Notwithstanding any provision of this chapter to the 55403
contrary, the department of job and family services shall take 55404
action under this section against a noninstitutional medicaid 55405
provider or its owner, officer, authorized agent, associate, 55406
manager, or employee. 55407

(C) Except as provided in division (D) of this section and in 55408
rules adopted by the department under division (H) of this 55409
section, on receiving notice and a copy of an indictment that is 55410
issued on or after September 29, 2007, and charges a 55411
noninstitutional medicaid provider or its owner, officer, 55412
authorized agent, associate, manager, or employee with committing 55413
an offense specified in division (E) of this section, the 55414

department shall suspend the provider agreement held by the 55415
noninstitutional medicaid provider. Subject to division (D) of 55416
this section, the department shall also terminate medicaid 55417
reimbursement to the provider for services rendered. 55418

The suspension shall continue in effect until the proceedings 55419
in the criminal case are completed through dismissal of the 55420
indictment or through conviction, entry of a guilty plea, or 55421
finding of not guilty. If the department commences a process to 55422
terminate the suspended provider agreement, the suspension shall 55423
also continue in effect until the termination process is 55424
concluded. 55425

Pursuant to section 5111.06 of the Revised Code, the 55426
department is not required to take action under this division by 55427
issuing an order pursuant to an adjudication conducted in 55428
accordance with Chapter 119. of the Revised Code. 55429

When subject to a suspension under this division, a provider, 55430
owner, officer, authorized agent, associate, manager, or employee 55431
shall not own or provide services to any other medicaid provider 55432
or risk contractor or arrange for, render, or order services for 55433
medicaid recipients during the period of suspension. During the 55434
period of suspension, the provider, owner, officer, authorized 55435
agent, associate, manager, or employee shall not receive 55436
reimbursement in the form of direct payments from the department 55437
or indirect payments of medicaid funds in the form of salary, 55438
shared fees, contracts, kickbacks, or rebates from or through any 55439
participating provider or risk contractor. 55440

(D)(1) The department shall not suspend a provider agreement 55441
or terminate medicaid reimbursement under division (C) of this 55442
section if the provider or owner can demonstrate through the 55443
submission of written evidence that the provider or owner did not 55444
directly or indirectly sanction the action of its authorized 55445
agent, associate, manager, or employee that resulted in the 55446

indictment. 55447

(2) The termination of medicaid reimbursement applies only to 55448
payments for medicaid services rendered subsequent to the date on 55449
which the notice required under division (F) of this section is 55450
sent. Claims for reimbursement for medicaid services rendered by 55451
the provider prior to the issuance of the notice may be subject to 55452
prepayment review procedures whereby the department reviews claims 55453
to determine whether they are supported by sufficient 55454
documentation, are in compliance with state and federal statutes 55455
and rules, and are otherwise complete. 55456

(E)(1) In the case of a noninstitutional medicaid provider 55457
that is not an independent provider, the suspension of a provider 55458
agreement under division (C) of this section applies when an 55459
indictment charges a person with committing an act that would be a 55460
felony or misdemeanor under the laws of this state and the act 55461
relates to or results from either of the following: 55462

(a) Furnishing or billing for medical care, services, or 55463
supplies under the medicaid program; 55464

(b) Participating in the performance of management or 55465
administrative services relating to furnishing medical care, 55466
services, or supplies under the medicaid program. 55467

(2) In the case of a noninstitutional medicaid provider that 55468
is an independent provider, the suspension of a provider agreement 55469
under division (C) of this section applies when an indictment 55470
charges a person with committing an act that would constitute ~~one~~ 55471
~~of the offenses specified in division (D) of a disqualifying~~ 55472
offense as defined in section 5111.034 5111.032 of the Revised 55473
Code. 55474

(F) Not later than five days after suspending a provider 55475
agreement under division (C) of this section, the department shall 55476
send notice of the suspension to the affected provider or owner. 55477

In providing the notice, the department shall do all of the following: 55478
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(1) Describe the indictment that was the cause of the suspension, without necessarily disclosing specific information concerning any ongoing civil or criminal investigation; 55480
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(2) State that the suspension will continue in effect until the proceedings in the criminal case are completed through dismissal of the indictment or through conviction, entry of a guilty plea, or finding of not guilty and, if the department commences a process to terminate the suspended provider agreement, until the termination process is concluded; 55483
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(3) Inform the provider or owner of the opportunity to submit to the department, not later than thirty days after receiving the notice, a request for a reconsideration pursuant to division (G) of this section. 55489
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(G)(1) Pursuant to the procedure specified in division (G)(2) of this section, a noninstitutional medicaid provider or owner subject to a suspension under this section may request a reconsideration. The request shall be made not later than thirty days after receipt of the notice provided under division (F) of this section. The reconsideration is not subject to an adjudication hearing pursuant to Chapter 119. of the Revised Code. 55493
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(2) In requesting a reconsideration, the provider or owner shall submit written information and documents to the department. The information and documents may pertain to any of the following issues: 55500
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(a) Whether the determination to suspend the provider agreement was based on a mistake of fact, other than the validity of the indictment; 55504
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(b) Whether any offense charged in the indictment resulted from an offense specified in division (E) of this section; 55507
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(c) Whether the provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the indictment.

(3) The department shall review the information and documents submitted in a request for reconsideration. After the review, the suspension may be affirmed, reversed, or modified, in whole or in part. The department shall notify the affected provider or owner of the results of the review. The review and notification of its results shall be completed not later than forty-five days after receiving the information and documents submitted in a request for reconsideration.

(H) The department may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules may specify circumstances under which the department would not suspend a provider agreement pursuant to this section.

Sec. 5111.032. (A) As used in this section:

(1) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

~~(2) "Department" includes a designee of the department of job and family services.~~

~~(3) "Disqualifying offense" means any of the following:~~

(a) A violation of section 959.13, 959.131, 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02,

2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 55539
2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 55540
2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 55541
2917.03, 2917.31, 2919.12, 2919.121, 2919.123, 2919.22, 2919.23, 55542
2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.21, 2921.24, 55543
2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 2923.122, 55544
2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 2923.42, 55545
2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.09, 55546
2925.11, 2925.13, 2925.14, 2925.22, 2925.23, 2925.24, 2925.36, 55547
2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code; 55548

(b) Felonious sexual penetration in violation of former 55549
section 2907.12 of the Revised Code; 55550

(c) A violation of section 2905.04 of the Revised Code as it 55551
existed prior to July 1, 1996; 55552

(d) A violation of section 2923.01, 2923.02, or 2923.03 of 55553
the Revised Code when the underlying offense that is the object of 55554
the conspiracy, attempt, or complicity is one of the offenses 55555
listed in division (A)(2)(a) to (c) of this section; 55556

(e) A violation of an existing or former municipal ordinance 55557
or law of this state, any other state, or the United States that 55558
is substantially equivalent to any of the offenses listed in 55559
division (A)(2)(a) to (d) of this section. 55560

(3) "Owner" means a person who has an ownership interest in a 55561
provider or applicant to be a provider in an amount designated by 55562
the department of job and family services in rules adopted under 55563
this section. 55564

(4) "Person subject to the criminal records check 55565
requirement" means the following: 55566

(a) A provider or applicant to be a provider who is notified 55567
under division (E)(1) of this section that the provider or 55568
applicant is subject to a criminal records check; 55569

(b) An owner or prospective owner, officer or prospective officer, or board member or prospective board member of a provider or applicant to be a provider if, pursuant to division (E)(1)(a) of this section, the owner or prospective owner, officer or prospective officer, or board member or prospective board member is specified in information given to the provider or applicant under division (E)(1) of this section; 55570
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(c) An employee or prospective employee of a provider or applicant to be a provider if both of the following apply: 55577
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(i) The employee or prospective employee is specified, pursuant to division (E)(1)(b) of this section, in information given to the provider or applicant under division (E)(1) of this section. 55579
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(ii) The provider or applicant is not prohibited by division (D)(3)(b) of this section from employing the employee or prospective employee. 55583
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(5) "Provider" means a person, institution, or entity that has a medicaid provider agreement with the department of job and family services pursuant to Title XIX of the "Social Security Act," 49 State. 620 (1965), 42 U.S.C. 1396, as amended. 55586
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(6) "Responsible entity" means the following: 55590

(a) With respect to a criminal records check required under this section for a provider or applicant to be a provider, the department of job and family services or the department's designee; 55591
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(b) With respect to a criminal records check required under this section for an owner or prospective owner, officer or prospective officer, board member or prospective board member, or employee or prospective employee of a provider or applicant to be a provider, the provider or applicant. 55595
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~~(B)(1) Except as provided in division (B)(2) of this section,~~ 55600
the This section does not apply to any individual who is subject 55601
to a criminal records check under section 3712.09, 3721.121, 55602
5111.034, 5123.081, or 5123.169 of the Revised Code or any 55603
individual who is subject to a database review or criminal records 55604
check under section 173.394, 3701.881, or 5111.033 of the Revised 55605
Code. 55606

(C) The department of job and family services may require do 55607
any of the following: 55608

(1) Require that any provider, or applicant to be a provider, 55609
employee or prospective employee of a provider, owner or 55610
prospective owner of a provider, officer or prospective officer of 55611
a provider, or board member or prospective board member of a 55612
provider submit to a criminal records check as a condition of 55613
obtaining having a medicaid provider agreement, continuing to hold 55614
a provider agreement, being employed by a provider, having an 55615
ownership interest in a provider, or being an officer or board 55616
member of a provider. The department may designate the categories 55617
of persons who are subject to the criminal records check 55618
requirement. The department shall designate the times at which the 55619
criminal records checks must be conducted. 55620

~~(2) The section does not apply to providers, applicants to be~~ 55621
~~providers, employees of a provider, or prospective employees of a~~ 55622
~~provider who are subject to criminal records checks under section~~ 55623
~~5111.033 or 5111.034 of the Revised Code;~~ 55624

(2) Require that any provider or applicant to be a provider 55625
require an owner or prospective owner, officer or prospective 55626
officer, or board member or prospective board member of the 55627
provider or applicant submit to a criminal records check as a 55628
condition of being an owner, officer, or board member of the 55629
provider or applicant; 55630

(3) Require that any provider or applicant to be a provider 55631
do the following: 55632

(a) If so required by rules adopted under this section, 55633
determine pursuant to a database review conducted under division 55634
(F)(1)(a) of this section whether any employee or prospective 55635
employee of the provider or applicant is included in a database; 55636

(b) Unless the provider or applicant is prohibited by 55637
division (D)(3)(b) of this section from employing the employee or 55638
prospective employee, require the employee or prospective employee 55639
to submit to a criminal records check as a condition of being an 55640
employee of the provider or applicant. 55641

(D)(1) The department or the department's designee shall 55642
terminate a provider's medicaid provider agreement or deny an 55643
applicant's application for a medicaid provider agreement if the 55644
provider or applicant is a person subject to the criminal records 55645
check requirement and either of the following applies: 55646

(a) The provider or applicant fails to obtain the criminal 55647
records check after being given the information specified in 55648
division (G)(1) of this section. 55649

(b) Except as provided in rules adopted under this section, 55650
the provider or applicant is found by the criminal records check 55651
to have been convicted of, pleaded guilty to, or been found 55652
eligible for intervention in lieu of conviction for a 55653
disqualifying offense, regardless of the date of the conviction, 55654
the date of entry of the guilty plea, or the date the applicant or 55655
provider was found eligible for intervention in lieu of 55656
conviction. 55657

(2) No provider or applicant to be a provider shall permit a 55658
person to be an owner, officer, or board member of the provider or 55659
applicant if the person is a person subject to the criminal 55660
records check requirement and either of the following applies: 55661

(a) The person fails to obtain the criminal records check after being given the information specified in division (G)(1) of this section. 55662
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(b) Except as provided in rules adopted under this section, the person is found by the criminal records check to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense, regardless of the date of the conviction, the date of entry of the guilty plea, or the date the person was found eligible for intervention in lieu of conviction. 55665
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(3) No provider or applicant to be a provider shall employ a person if any of the following apply: 55672
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(a) The person has been excluded from providing services or items under the medicaid program, the medicare program operated pursuant to Title XVIII of the "Social Security Act," or any other federal health care program. 55674
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(b) If the person is subject to a database review conducted under division (F)(1)(a) of this section, the person is found by the database review to be included in a database and the rules adopted under this section regarding the database review prohibit the provider or applicant from employing a person included in the database. 55678
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(c) If the person is a person subject to the criminal records check requirement, either of the following applies: 55684
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(i) The person fails to obtain the criminal records check after being given the information specified in division (G)(1) of this section. 55686
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(ii) Except as provided in rules adopted under this section, the person is found by the criminal records check to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense, 55689
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regardless of the date of the conviction, the date of entry of the 55693
guilty plea, or the date the person was found eligible for 55694
intervention in lieu of conviction. 55695

~~(C)(E)~~(1) The department or the department's designee shall 55696
inform each provider or applicant to be a provider whether the 55697
provider or applicant is subject to a criminal records check 55698
~~requirement under division (B) of this section.~~ For providers, the 55699
information shall be given at times designated in rules adopted 55700
under this section. For applicants to be providers, the 55701
information shall be given at the time of initial application. 55702
When the information is given, the department or the department's 55703
designee shall specify ~~which~~ the following: 55704

(a) Which of the provider's or applicant's ~~employees or~~ 55705
~~prospective employees,~~ owners or prospective owners, officers or 55706
prospective officers, or board members or prospective board 55707
members are subject to the a criminal records check ~~requirement;~~ 55708

(b) Which of the provider's or applicant's employees or 55709
prospective employees are subject to division (C)(3) of this 55710
section. 55711

(2) At times designated in rules adopted under this section, 55712
a provider or applicant to be a provider that is a person subject 55713
to the criminal records check requirement shall ~~inform~~ do the 55714
following: 55715

(a) Inform each person specified ~~by the department~~ under 55716
division ~~(C)(1)(E)(1)(a)~~ of this section that the person is 55717
required, ~~as applicable,~~ to submit to a criminal records check ~~for~~ 55718
~~final consideration for employment in a full-time, part-time, or~~ 55719
~~temporary position; as a condition of continued employment; or as~~ 55720
a condition of ~~becoming or continuing to be~~ being an owner, 55721
officer, or board member ~~or owner~~ of a the provider or applicant; 55722

(b) Inform each person specified under division (E)(1)(b) of 55723

this section that the person is subject to division (C)(3) of this section. 55724
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~~(D)(F)(1) If a provider or applicant to be a provider is a person subject to a the criminal records check under this section requirement, the department or the department's designee shall require the conduct of a criminal records check by the superintendent of the bureau of criminal identification and investigation. If a provider or applicant to be a provider for whom a criminal records check is required does not present proof of having been a resident of this state for the five year period immediately prior to the date the criminal records check is requested or provide evidence that within that five year period the superintendent has requested information about the individual from the federal bureau of investigation in a criminal records check, the department shall require the provider or applicant to request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the provider or applicant. Even if a provider or applicant for whom a criminal records check request is required presents proof of having been a resident of this state for the five year period, the department may require that the provider or applicant request that the superintendent obtain information from the federal bureau of investigation and include it in the criminal records check of the provider or applicant.~~ 55726
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~~(2) investigation. A provider or applicant to be a provider shall require the conduct of a criminal records check by the superintendent with respect to each of the persons specified by the department under division (C)(1)(E)(1)(a) of this section. If the person for whom a criminal records check is required does not present proof of having been a resident of this state for the five year period immediately prior to the date the criminal records check is requested or provide evidence that within that~~ 55748
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~~five year period the superintendent of the bureau of criminal
identification and investigation has requested information about
the individual from the federal bureau of investigation in a
criminal records check, the individual shall request that the
superintendent obtain information from the federal bureau of
investigation as part of the criminal records check of the
individual. Even if an individual for whom a criminal records
check request is required presents proof of having been a resident
of this state for the five year period, the department may require
the provider to request that the superintendent obtain information
from the federal bureau of investigation and include it in the
criminal records check of the person. With respect to each
employee and prospective employee specified under division
(E)(1)(b) of this section, a provider or applicant to be a
provider shall do the following:~~

(a) If rules adopted under this section require the provider
or applicant to conduct a database review to determine whether the
employee or prospective employee is included in a database,
conduct the database review in accordance with the rules;

(b) Unless the provider or applicant is prohibited by
division (D)(3)(b) of this section from employing the employee or
prospective employee, require the conduct of a criminal records
check of the employee or prospective employee by the
superintendent.

(2) If a person subject to the criminal records check
requirement does not present proof of having been a resident of
this state for the five-year period immediately prior to the date
the criminal records check is requested or provide evidence that
within that five-year period the superintendent has requested
information about the person from the federal bureau of
investigation in a criminal records check, the responsible entity
shall require the person to request that the superintendent obtain

information from the federal bureau of investigation as part of 55788
the criminal records check of the person. Even if the person 55789
presents proof of having been a resident of this state for the 55790
five-year period, the responsible entity may require that the 55791
person request that the superintendent obtain information from the 55792
federal bureau of investigation and include it in the criminal 55793
records check of the person. 55794

~~(E)(1)(G)~~ Criminal records checks required ~~under~~ by this 55795
section ~~for providers or applicants to be providers~~ shall be 55796
obtained as follows: 55797

~~(a)(1)~~ The ~~department~~ responsible entity shall provide each 55798
~~provider or applicant~~ person subject to the criminal records check 55799
requirement information about accessing and completing the form 55800
prescribed pursuant to division (C)(1) of section 109.572 of the 55801
Revised Code and the standard ~~fingerprint~~ impression sheet 55802
prescribed pursuant to division (C)(2) of that section. 55803

~~(b)(2)~~ The ~~provider or applicant~~ person subject to the 55804
criminal records check requirement shall submit the required form 55805
and one complete set of the person's fingerprint impressions 55806
directly to the superintendent for purposes of conducting the 55807
criminal records check using the applicable methods prescribed by 55808
division (C) of section 109.572 of the Revised Code. The ~~applicant~~ 55809
~~or provider~~ person shall pay all fees associated with obtaining 55810
the criminal records check. 55811

~~(e)(3)~~ The superintendent shall conduct the criminal records 55812
check in accordance with section 109.572 of the Revised Code. The 55813
~~provider or applicant~~ person subject to the criminal records check 55814
requirement shall instruct the superintendent to submit the report 55815
of the criminal records check directly to the ~~director of job and~~ 55816
~~family services.~~ 55817

~~(2) Criminal records checks required under this section for~~ 55818

~~persons specified by the department under division (C)(1) of this section shall be obtained as follows:~~ 55819
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~~(a) The provider shall give to each person subject to criminal records check requirement information about accessing and completing the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section.~~ 55821
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~~(b) The person shall submit the required form and one complete set of fingerprint impressions directly to the superintendent for purposes of conducting the criminal records check using the applicable methods prescribed by division (C) of section 109.572 of the Revised Code. The person shall pay all fees associated with obtaining the criminal records check.~~ 55827
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~~(c) The superintendent shall conduct the criminal records check in accordance with section 109.572 of the Revised Code. The person subject to the criminal records check shall instruct the superintendent to submit the report of the criminal records check directly to the provider responsible entity. The If the department or the department's designee is not the responsible entity, the department or designee may require the provider responsible entity to submit the report to the department or designee.~~ 55833
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~~(F) If a provider or applicant to be a provider is given the information specified in division (E)(1)(a) of this section but fails to obtain a criminal records check, the department shall, as applicable, terminate the provider agreement or deny the application to be a provider.~~ 55841
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~~If a person is given the information specified in division (E)(2)(a) of this section but fails to obtain a criminal records check, the provider shall not, as applicable, permit the person to be an employee, owner, officer, or board member of the provider.~~ 55846
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~~(G) Except as provided in rules adopted under division (J) of this section, the department shall terminate the provider agreement of a provider or the department shall not issue a provider agreement to an applicant if the provider or applicant is subject to a criminal records check under this section and the provider or applicant has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the following, regardless of the date of the conviction, the date of entry of the guilty plea, or the date the applicant or provider was found eligible for intervention in lieu of conviction:~~

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

~~(2) A violation of an existing or former municipal ordinance or law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (C)(1) of this section.~~ 55883
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~~(H)(1)(a) Except as provided in rules adopted under division (J) of this section and subject to division (H)(2) of this section, no provider shall permit a person to be an employee, owner, officer, or board member of the provider if the person is subject to a criminal records check under this section and the person has been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for any of the offenses specified in division (C)(1) or (2) of this section.~~ 55887
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~~(b) No provider shall employ a person who has been excluded from participating in the medicaid program, the medicare program operated pursuant to Title XVIII of the "Social Security Act," or any other federal health care program.~~ 55895
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(2)(a)(H)(1) A provider or applicant to be a provider may employ conditionally a person for whom a criminal records check is required under by this section prior to obtaining the results of a the criminal records check regarding the person, but only if the both of the following apply: 55899
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(a) The provider or applicant is not prohibited by division (D)(3)(b) of this section from employing the person. 55904
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(b) The person submits a request for a the criminal records check not later than five business days after the individual person begins conditional employment. 55906
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~~(b)(2) A provider or applicant to be a provider that employs a person conditionally under authority of division (H)(2)(a)(1) of this section shall terminate the person's employment if the results of the criminal records check request are not obtained within the period ending sixty days after the date the request is~~ 55909
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made. Regardless of when the results of the criminal records check 55914
are obtained, if the results indicate that the individual person 55915
has been convicted of, has pleaded guilty to, or has been found 55916
eligible for intervention in lieu of conviction for ~~any of the~~ 55917
~~offenses specified in division (G)(1) or (2) of this section a~~ 55918
disqualifying offense, the provider or applicant shall terminate 55919
the person's employment unless circumstances specified in rules 55920
adopted under this section exist that permit the provider or 55921
applicant to employ the person and the provider or applicant 55922
chooses to employ the ~~individual pursuant to division (J) of this~~ 55923
~~section~~ person. 55924

(I) The report of a criminal records check conducted pursuant 55925
to this section is not a public record for the purposes of section 55926
149.43 of the Revised Code and shall not be made available to any 55927
person other than the following: 55928

(1) The person who is the subject of the criminal records 55929
check or the person's representative; 55930

(2) The director of job and family services and the staff of 55931
the department in the administration of the medicaid program; 55932

(3) The department's designee; 55933

(4) The provider or applicant to be a provider who required 55934
the person who is the subject of the criminal records check to 55935
submit to the criminal records check; 55936

(5) A court, hearing officer, or other necessary individual 55937
involved in a case dealing with ~~the~~ any of the following: 55938

(a) The denial or termination of a medicaid provider 55939
agreement; 55940

~~(4) A court, hearing officer, or other necessary individual~~ 55941
~~involved in a case dealing with a~~ (b) A person's denial of 55942
employment, termination of employment, or employment or 55943

unemployment benefits; 55944

(c) A civil or criminal action regarding the medicaid program. 55945
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(J) The ~~department~~ director of job and family services may 55947
adopt rules in accordance with Chapter 119. of the Revised Code to 55948
implement this section. If the director adopts such rules, the 55949
rules shall designate the times at which a criminal records check 55950
must be conducted under this section. The rules may ~~specify~~ do any 55951
of the following: 55952

(1) Designate the categories of persons who are subject to a 55953
criminal records check under this section; 55954

(2) Specify circumstances under which the department or the 55955
department's designee may continue a medicaid provider agreement 55956
or issue a medicaid provider agreement to an applicant when the 55957
provider or applicant ~~has~~ is found by a criminal records check to 55958
have been convicted of, ~~has~~ pleaded guilty to, or has been found 55959
eligible for intervention in lieu of conviction for ~~any of the~~ 55960
~~offenses specified in division (G)(1) or (2) of this section.~~ The 55961
~~rules may also specify~~ a disqualifying offense; 55962

(3) Specify circumstances under which a provider or applicant 55963
to be a provider may permit a person to be an employee, owner, 55964
officer, or board member of the provider or applicant, when the 55965
person ~~has~~ is found by a criminal records check conducted pursuant 55966
to this section to have been convicted of, ~~has~~ pleaded guilty to, 55967
or ~~has~~ been found eligible for intervention in lieu of conviction 55968
~~for any of the offenses specified in division (G)(1) or (2) of~~ 55969
~~this section~~ a disqualifying offense; 55970

(4) Specify all of the following: 55971

(a) The circumstances under which a database review must be 55972
conducted under division (F)(1)(a) of this section to determine 55973
whether an employee or prospective employee of a provider or 55974

<u>applicant to be a provider is included in a database;</u>	55975
<u>(b) The procedures for conducting the database review;</u>	55976
<u>(c) The databases that are to be checked;</u>	55977
<u>(d) The circumstances under which a provider or applicant to</u>	55978
<u>be a provider is prohibited from employing a person who is found</u>	55979
<u>by the database review to be included in a database.</u>	55980
Sec. 5111.033. (A) As used in this section:	55981
(1) "Applicant" means a person who is under final	55982
consideration for employment or, after September 26, 2003, an	55983
existing employee with a waiver agency in a full-time, part-time,	55984
or temporary position that involves providing home and	55985
community-based waiver services to a person with disabilities.	55986
"Applicant" also means an existing employee with a waiver agency	55987
in a full time, part time, or temporary position that involves	55988
providing home and community based waiver services to a person	55989
with disabilities after September 26, 2003.	55990
(2) "Criminal records check" has the same meaning as in	55991
section 109.572 of the Revised Code.	55992
(3) "Waiver agency" means a person or government entity that	55993
is not certified under the medicare program and is accredited by	55994
the community health accreditation program or the joint commission	55995
on accreditation of health care organizations or a company that	55996
provides home and community based waiver services to persons with	55997
disabilities through department of job and family services	55998
administered home and community-based waiver programs.	55999
(4) <u>"Home "Disqualifying offense" has the same meaning as in</u>	56000
<u>section 5111.032 of the Revised Code.</u>	56001
<u>"Employee" means a person employed by a waiver agency in a</u>	56002
<u>full-time, part-time, or temporary position that involves</u>	56003
<u>providing home and community-based services.</u>	56004

~~"Home and community-based waiver services medicaid waiver component" means services furnished under the provision of 42 C.F.R. 441, subpart G, that permit individuals to live in a home setting rather than a nursing facility or hospital has the same meaning as in section 5111.85 of the Revised Code. Home and community based waiver services are approved by the centers for medicare and medicaid for specific populations and are not otherwise available under the medicaid state plan.~~

"Waiver agency" means a person or government entity that provides home and community-based services under a home and community-based services medicaid waiver component administered by the department of job and family services, other than such a person or government entity that is certified under the medicare program. "Waiver agency" does not mean an independent provider as defined in section 5111.034 of the Revised Code.

(B) No waiver agency shall employ an applicant or continue to employ an employee in a position that involves providing home and community-based services if any of the following apply:

(1) A review of the databases listed in division (D) of this section reveals any of the following:

(a) That the applicant or employee is included in one or more of the databases listed in divisions (D)(1) to (5) of this section;

(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director of health that the applicant or employee neglected or abused a long-term care facility or residential care facility resident or misappropriated property of such a resident;

(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules adopted under this

section and the rules prohibit the waiver agency from employing an applicant or continuing to employ an employee included in such a database in a position that involves providing home and community-based services. 56036
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(2) After the applicant or employee is given the information and notification required by divisions (E)(2)(a) and (b) of this section, the applicant or employee fails to do either of the following: 56040
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(a) Access, complete, or forward to the superintendent of the bureau of criminal identification and investigation the form prescribed to division (C)(1) of section 109.572 of the Revised Code or the standard impression sheet prescribed pursuant to division (C)(2) of that section; 56044
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(b) Instruct the superintendent to submit the completed report of the criminal records check required by this section directly to the chief administrator of the waiver agency. 56049
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(3) Except as provided in rules adopted under this section, the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense, regardless of the date of the conviction, date of entry of the guilty plea, or the date the applicant or employee was found eligible for intervention in lieu of conviction. 56052
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(C) At the time of each applicant's initial application for employment in a position that involves providing home and community-based services, the chief administrator of a waiver agency shall inform the applicant of both of the following: 56060
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(1) That a review of the databases listed in division (D) of this section will be conducted to determine whether the waiver agency is prohibited by division (B)(1) of this section from 56064
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employing the applicant in the position; 56067

(2) That, unless the database review reveals that the 56068
applicant may not be employed in the position, a criminal records 56069
check of the applicant will be conducted and the applicant is 56070
required to provide a set of the applicant's fingerprint 56071
impressions as part of the criminal records check. 56072

(D) As a condition of employing any applicant in a position 56073
that involves providing home and community-based services, the 56074
chief administrator of a waiver agency shall conduct a database 56075
review of the applicant in accordance with rules adopted under 56076
this section. If rules adopted under this section so require, the 56077
chief administrator of a waiver agency shall conduct a database 56078
review of an employee in accordance with the rules as a condition 56079
of continuing to employ the employee in a position that involves 56080
providing home and community-based services. A database review 56081
shall determine whether the applicant or employee is included in 56082
any of the following: 56083

(1) The excluded parties list system maintained by the United 56084
States general services administration pursuant to subpart 9.4 of 56085
the federal acquisition regulation; 56086

(2) The list of excluded individuals and entities maintained 56087
by the office of inspector general in the United States department 56088
of health and human services pursuant to section 1128 of the 56089
"Social Security Act," 94 Stat. 2619 (1980), 42 U.S.C. 1320a-7, as 56090
amended, and section 1156 of the "Social Security Act," 96 Stat. 56091
388 (1982), 42 U.S.C. 1320c-5, as amended; 56092

(3) The registry of MR/DD employees established under section 56093
5123.52 of the Revised Code; 56094

(4) The internet-based sex offender and child-victim offender 56095
database established under division (A)(11) of section 2950.13 of 56096
the Revised Code; 56097

(5) The internet-based database of inmates established under section 5120.66 of the Revised Code; 56098
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(6) The state nurse aide registry established under section 3721.32 of the Revised Code; 56100
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(7) Any other database, if any, specified in rules adopted under this section. 56102
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(E)(1) The As a condition of employing any applicant in a position that involves providing home and community-based services, the chief administrator of a waiver agency shall require each the applicant to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to of the applicant. If rules adopted under this section so require, the chief administrator of a waiver agency shall require an employee to request that the superintendent conduct a criminal records check of the employee at times specified in the rules as a condition of continuing to employ the employee in a position that involves providing home and community-based services. However, a criminal records check is not required for an applicant or employee if the waiver agency is prohibited by division (B)(1) of this section from employing the applicant or continuing to employ the employee in a position that involves providing home and community-based services. If an applicant or employee for whom a criminal records check request is required under this division by this section does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant or employee from the federal bureau of investigation in a criminal records check, the chief administrator shall require the applicant or employee to request that the superintendent obtain information from the federal bureau of investigation as part of the criminal 56104
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records check ~~of the applicant~~. Even if an applicant or employee 56130
for whom a criminal records check request is required ~~under this~~ 56131
~~division by this section~~ presents proof of having been a resident 56132
of this state for the five-year period, the chief administrator 56133
may require the applicant or employee to request that the 56134
superintendent include information from the federal bureau of 56135
investigation in the criminal records check. 56136

(2) The chief administrator shall provide the following to 56137
each applicant and employee for whom a criminal records check 56138
~~request is required under division (B)(1) of~~ by this section: 56139

(a) Information about accessing, completing, and forwarding 56140
to the superintendent of the bureau of criminal identification and 56141
investigation the form prescribed pursuant to division (C)(1) of 56142
section 109.572 of the Revised Code and the standard ~~fingerprint~~ 56143
impression sheet prescribed pursuant to division (C)(2) of that 56144
section; 56145

(b) Written notification that the applicant or employee is to 56146
instruct the superintendent to submit the completed report of the 56147
criminal records check directly to the chief administrator. 56148

(3) ~~An applicant given information and notification under~~ 56149
~~divisions (B)(2)(a) and (b) of this section who fails to access,~~ 56150
~~complete, and forward to the superintendent the form or the~~ 56151
~~standard fingerprint impression sheet, or who fails to instruct~~ 56152
~~the superintendent to submit the completed report of the criminal~~ 56153
~~records check directly to the chief administrator, shall not be~~ 56154
~~employed in any position in a waiver agency for which a criminal~~ 56155
~~records check is required by this section. A waiver agency shall~~ 56156
pay to the bureau of criminal identification and investigation the 56157
fee prescribed pursuant to division (C)(3) of section 109.572 of 56158
the Revised Code for any criminal records check required by this 56159
section. However, a waiver agency may require an applicant to pay 56160
to the bureau the fee for a criminal records check of the 56161

applicant. If the waiver agency pays the fee for an applicant, it 56162
may charge the applicant a fee not exceeding the amount the waiver 56163
agency pays to the bureau under this section if the waiver agency 56164
notifies the applicant at the time of initial application for 56165
employment of the amount of the fee and that, unless the fee is 56166
paid, the applicant will not be considered for employment. 56167

~~(C)(1) Except as provided in rules adopted by the department~~ 56168
~~of job and family services in accordance with division (F) of this~~ 56169
~~section and subject to division (C)(2) of this section, no waiver~~ 56170
~~agency shall employ a person in a position that involves providing~~ 56171
~~home and community based waiver services to persons with~~ 56172
~~disabilities if the person has been convicted of, has pleaded~~ 56173
~~guilty to, or has been found eligible for intervention in lieu of~~ 56174
~~conviction for any of the following, regardless of the date of the~~ 56175
~~conviction, the date of entry of the guilty plea, or the date the~~ 56176
~~person was found eligible for intervention in lieu of conviction:~~ 56177

~~(a) A violation of section 959.13, 2903.01, 2903.02, 2903.03,~~ 56178
~~2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16,~~ 56179
~~2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05,~~ 56180
~~2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06,~~ 56181
~~2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24,~~ 56182
~~2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02,~~ 56183
~~2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01,~~ 56184
~~2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04,~~ 56185
~~2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41,~~ 56186
~~2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47,~~ 56187
~~2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11,~~ 56188
~~2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03,~~ 56189
~~2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02,~~ 56190
~~2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03,~~ 56191
~~2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22,~~ 56192
~~2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual~~ 56193

~~penetration in violation of former section 2907.12 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date;~~

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

~~(2)(a)(F)(1) A waiver agency may employ conditionally an applicant for whom a criminal records check request is required under division (B) of by this section prior to obtaining the results of a the criminal records check ~~regarding the individual,~~ provided that the if both of the following apply:~~

~~(a) The waiver agency is not prohibited by division (B)(1) of this section from employing the applicant in a position that involves providing home and community-based services.~~

~~(b) The chief administrator of the waiver agency shall require requires the individual applicant to request a criminal records check regarding the individual applicant in accordance with division (B)(E)(1) of this section not later than five business days after the individual applicant begins conditional employment.~~

~~(b)(2) A waiver agency that employs an individual applicant conditionally under ~~authority of~~ division (C)(2)(a)(F)(1) of this section shall terminate the ~~individual's~~ applicant's employment if the results of the criminal records check ~~request under division (B) of this section,~~ other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the~~

request for the criminal records check is made. Regardless of when 56225
the results of the criminal records check are obtained, if the 56226
results indicate that the ~~individual~~ applicant has been convicted 56227
of, has pleaded guilty to, or has been found eligible for 56228
intervention in lieu of conviction for ~~any of the offenses listed~~ 56229
~~or described in division (C)(1) of this section~~ a disqualifying 56230
offense, the waiver agency shall terminate the ~~individual's~~ 56231
applicant's employment unless circumstances specified in rules 56232
adopted under this section exist that permit the waiver agency to 56233
employ the applicant and the waiver agency chooses to employ the 56234
individual pursuant to division (F) of this section applicant. 56235

~~(D)(1) The fee prescribed pursuant to division (C)(3) of 56236
section 109.572 of the Revised Code for each criminal records 56237
check conducted pursuant to a request made under division (B) of 56238
this section shall be paid to the bureau of criminal 56239
identification and investigation by the applicant or the waiver 56240
agency.~~ 56241

~~(2) If a waiver agency pays the fee, it may charge the 56242
applicant a fee not exceeding the amount the agency pays under 56243
division (D)(1) of this section. An agency may collect a fee only 56244
if the agency notifies the person at the time of initial 56245
application for employment of the amount of the fee and that, 56246
unless the fee is paid, the person will not be considered for 56247
employment.~~ 56248

~~(E)(G) The report of any criminal records check conducted 56249
pursuant to a request made under this section is not a public 56250
record for the purposes of section 149.43 of the Revised Code and 56251
shall not be made available to any person other than the 56252
following:~~ 56253

(1) The individual applicant or employee who is the subject 56254
of the criminal records check or the ~~individual's~~ representative 56255
of the applicant or employee; 56256

(2) The chief administrator of the waiver agency requesting 56257
that requires the applicant or employee to request the criminal 56258
records check or the administrator's representative; 56259

(3) ~~An administrator at~~ The director of job and family 56260
services and the staff of the department in the administration of 56261
the medicaid program; 56262

(4) A court, hearing officer, or other necessary individual 56263
involved in a case dealing with a any of the following: 56264

(a) A denial of employment of the applicant or dealing with 56265
employment employee; 56266

(b) Employment or unemployment benefits of the applicant or 56267
employee; 56268

(c) A civil or criminal action regarding the medicaid 56269
program. 56270

~~(F)~~(H) The department director of job and family services 56271
shall adopt rules in accordance with Chapter 119. of the Revised 56272
Code to implement this section. ~~The~~ 56273

(1) The rules may do the following: 56274

(a) Require employees to undergo database reviews and 56275
criminal records checks under this section; 56276

(b) If the rules require employees to undergo database 56277
reviews and criminal records checks under this section, exempt one 56278
or more classes of employees from the requirements; 56279

(c) For the purpose of division (D)(7) of this section, 56280
specify other databases that are to be checked as part of a 56281
database review conducted under this section. 56282

(2) The rules shall specify all of the following: 56283

(a) The procedures for conducting a database review under 56284
this section; 56285

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, the times at which the database reviews and criminal records checks are to be conducted; 56286
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(c) If the rules specify other databases to be checked as part of a database review, the circumstances under which a waiver agency is prohibited from employing an applicant or continuing to employ an employee who is found by the database review to be included in one or more of those databases; 56290
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(d) The circumstances under which a waiver agency may employ a person an applicant or employee who has is found by a criminal records check required by this section to have been convicted of, has pleaded guilty to, or has been found eligible for intervention in lieu of conviction for an offense listed or described in division (C)(1) of this section a disqualifying offense. 56295
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~~(G) The chief administrator of a waiver agency shall inform each person, at the time of initial application for a position that involves providing home and community based waiver services to a person with a disability, that the person is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the person comes under final consideration for employment.~~ 56301
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~~(H)(1) A person who, on September 26, 2003, is an employee of a waiver agency in a full-time, part-time, or temporary position that involves providing home and community based waiver services to a person with disabilities shall comply with this section within sixty days after September 26, 2003, unless division (H)(2) of this section applies.~~ 56308
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~~(2) This section shall not apply to a person to whom all of the following apply:~~ 56314
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~~(a) On September 26, 2003, the person is an employee of a~~ 56316

~~waiver agency in a full time, part time, or temporary position 56317
that involves providing home and community based waiver services 56318
to a person with disabilities. 56319~~

~~(b) The person previously had been the subject of a criminal 56320
background check relating to that position; 56321~~

~~(c) The person has been continuously employed in that 56322
position since that criminal background check had been conducted. 56323~~

(I) The amendments made by ...B... to this section do not 56324
preclude the department of job and family services from taking 56325
action against a person for failure to comply with former division 56326
(H) of this section as that division existed on the day preceding 56327
the effective date of this amendment. 56328

Sec. 5111.034. (A) As used in this section: 56329

~~(1) "Anniversary date" means the later of the effective date 56330
of the provider agreement relating to the independent provider or 56331
sixty days after September 26, 2003. 56332~~

~~(2) "Criminal "Applicant" means a person who has applied for 56333
a medicaid provider agreement to provide home and community-based 56334
services as an independent provider under a home and 56335
community-based medicaid waiver component administered by the 56336
department of job and family services. 56337~~

"Criminal records check" has the same meaning as in section 56338
109.572 of the Revised Code. 56339

~~(3) "Department" includes a designee of the department of job 56340
and family services. 56341~~

~~(4) "Independent "Disqualifying offense" has the same meaning 56342
as in section 5111.032 of the Revised Code. 56343~~

"Independent provider" means a person who is submitting an 56344
application for a provider agreement or who has a medicaid 56345

provider agreement to provide home and community-based services as 56346
an independent provider in a home and community-based services 56347
medicaid waiver component administered by the department of job 56348
and family services ~~administered home and community-based services~~ 56349
~~program providing home and community based waiver services to~~ 56350
~~consumers with disabilities.~~ 56351

~~(5)~~ "Home and community-based ~~waiver~~ services medicaid waiver 56352
component" has the same meaning as in section ~~5111.033~~ 5111.85 of 56353
the Revised Code. 56354

(B) The department of job and family services or the 56355
department's designee shall deny an applicant's application for a 56356
medicaid provider agreement and shall terminate an independent 56357
provider's medicaid provider agreement if either of the following 56358
applies: 56359

(1) After the applicant or independent provider is given the 56360
information and notification required by divisions (D)(2)(a) and 56361
(b) of this section, the applicant or independent provider fails 56362
to do either of the following: 56363

(a) Access, complete, or forward to the superintendent of the 56364
bureau of criminal identification and investigation the form 56365
prescribed pursuant to division (C)(1) of section 109.572 of the 56366
Revised Code or the standard impression sheet prescribed pursuant 56367
to division (C)(2) of that section; 56368

(b) Instruct the superintendent to submit the completed 56369
report of the criminal records check required by this section 56370
directly to the department or the department's designee. 56371

(2) Except as provided in rules adopted under this section, 56372
the applicant or independent provider is found by a criminal 56373
records check required by this section to have been convicted of, 56374
pleaded guilty to, or been found eligible for intervention in lieu 56375
of conviction for a disqualifying offense, regardless of the date 56376

of the conviction, the date of entry of the guilty plea, or the 56377
date the applicant or independent provider was found eligible for 56378
intervention in lieu of conviction. 56379

(C)(1) The department of job and family services or the 56380
department's designee shall inform each independent provider 56381
applicant, at the time of initial application for a medicaid 56382
provider agreement that involves providing home and 56383
community based waiver services to consumers with disabilities, 56384
that the independent provider applicant is required to provide a 56385
set of the applicant's fingerprint impressions and that a criminal 56386
records check is required to be conducted if the person is to 56387
become an independent provider in a department administered home 56388
and community based waiver program as a condition of the 56389
department's approving the application. 56390

(2) Beginning on September 26, 2003, the department or the 56391
department's designee shall inform each enrolled medicaid 56392
independent provider on or before the time of the anniversary date 56393
of the medicaid provider agreement that involves providing home 56394
and community based waiver services to consumers with disabilities 56395
that the independent provider is required to provide a set of the 56396
independent provider's fingerprint impressions and that a criminal 56397
records check is required to be conducted. 56398

~~(C)~~(D)(1) The department or the department's designee shall 56399
require the independent provider an applicant to complete a 56400
criminal records check prior to entering into a medicaid provider 56401
agreement with the independent provider and applicant. The 56402
department or the department's designee shall require an 56403
independent provider to complete a criminal records check at least 56404
annually thereafter. If an applicant or independent provider for 56405
whom a criminal records check is required under this division by 56406
this section does not present proof of having been a resident of 56407
this state for the five-year period immediately prior to the date 56408

the criminal records check is requested or provide evidence that 56409
within that five-year period the superintendent of the bureau of 56410
criminal identification and investigation has requested 56411
information about the applicant or independent provider from the 56412
federal bureau of investigation in a criminal records check, the 56413
department or the department's designee shall request that the 56414
applicant or independent provider obtain through the 56415
superintendent a criminal records request from the federal bureau 56416
of investigation as part of the criminal records check of the 56417
applicant or independent provider. Even if an applicant or 56418
independent provider for whom a criminal records check request is 56419
required ~~under this division~~ by this section presents proof of 56420
having been a resident of this state for the five-year period, the 56421
department or the department's designee may request that the 56422
applicant or independent provider obtain information through the 56423
superintendent from the federal bureau of investigation in the 56424
criminal records check. 56425

(2) The department or the department's designee shall provide 56426
the following to each applicant and independent provider for whom 56427
a criminal records check ~~request~~ is required ~~under division (C)(1)~~ 56428
~~of~~ by this section: 56429

(a) Information about accessing, completing, and forwarding 56430
to the superintendent of the bureau of criminal identification and 56431
investigation the form prescribed pursuant to division (C)(1) of 56432
section 109.572 of the Revised Code and the standard ~~fingerprint~~ 56433
impression sheet prescribed pursuant to division (C)(2) of that 56434
section; 56435

(b) Written notification that the applicant or independent 56436
provider is to instruct the superintendent to submit the completed 56437
report of the criminal records check directly to the department or 56438
the department's designee. 56439

(3) ~~An independent provider given information and~~ 56440

~~notification under divisions (C)(2)(a) and (b) of this section who~~ 56441
~~fails to access, complete, and forward to the superintendent the~~ 56442
~~form or the standard fingerprint impression sheet, or who fails to~~ 56443
~~instruct the superintendent to submit the completed report of the~~ 56444
~~criminal records check directly to the department, shall not be~~ 56445
~~approved as an independent provider. Each applicant and~~ 56446
~~independent provider for whom a criminal records check is required~~ 56447
~~by this section shall pay to the bureau of criminal identification~~ 56448
~~and investigation the fee prescribed pursuant to division (C)(3)~~ 56449
~~of section 109.572 of the Revised Code for the criminal records~~ 56450
~~check conducted of the applicant or independent provider.~~ 56451

~~(D) Except as provided in rules adopted by the department in~~ 56452
~~accordance with division (G) of this section, the department shall~~ 56453
~~not issue a new provider agreement to, and shall terminate an~~ 56454
~~existing provider agreement of, an independent provider if the~~ 56455
~~person has been convicted of, has pleaded guilty to, or has been~~ 56456
~~found eligible for intervention in lieu of conviction for any of~~ 56457
~~the following, regardless of the date of the conviction, the date~~ 56458
~~of entry of the guilty plea, or the date the person was found~~ 56459
~~eligible for intervention in lieu of conviction:~~ 56460

~~(1) A violation of section 959.13, 2903.01, 2903.02, 2903.03,~~ 56461
~~2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16,~~ 56462
~~2903.21, 2903.211, 2903.22, 2903.34, 2905.01, 2905.02, 2905.05,~~ 56463
~~2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06,~~ 56464
~~2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24,~~ 56465
~~2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02,~~ 56466
~~2909.03, 2909.04, 2909.05, 2909.22, 2909.23, 2909.24, 2911.01,~~ 56467
~~2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04,~~ 56468
~~2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41,~~ 56469
~~2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47,~~ 56470
~~2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.11,~~ 56471
~~2917.31, 2919.12, 2919.22, 2919.23, 2919.24, 2919.25, 2921.03,~~ 56472

~~2921.11, 2921.13, 2921.34, 2921.35, 2921.36, 2923.01, 2923.02, 56473
2923.03, 2923.12, 2923.13, 2923.161, 2923.32, 2925.02, 2925.03, 56474
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.14, 2925.22, 56475
2925.23, 2927.12, or 3716.11 of the Revised Code, felonious sexual 56476
penetration in violation of former section 2907.12 of the Revised 56477
Code, a violation of section 2905.04 of the Revised Code as it 56478
existed prior to July 1, 1996, a violation of section 2919.23 of 56479
the Revised Code that would have been a violation of section 56480
2905.04 of the Revised Code as it existed prior to July 1, 1996, 56481
had the violation been committed prior to that date;~~ 56482

~~(2) A violation of an existing or former municipal ordinance 56483
or law of this state, any other state, or the United States that 56484
is substantially equivalent to any of the offenses listed in 56485
division (D)(1) of this section. 56486~~

~~(E) Each independent provider shall pay to the bureau of 56487
criminal identification and investigation the fee prescribed 56488
pursuant to division (C)(3) of section 109.572 of the Revised Code 56489
for each criminal records check conducted pursuant to a request 56490
made under division (C) of this section. 56491~~

~~(F)(E) The report of any criminal records check conducted by 56492
the bureau of criminal identification and investigation in 56493
accordance with section 109.572 of the Revised Code and pursuant 56494
to a request made under ~~division (C) of this section~~ is not a 56495
public record for the purposes of section 149.43 of the Revised 56496
Code and shall not be made available to any person other than the 56497
following: 56498~~

~~(1) The person who is the subject of the criminal records 56499
check or the person's representative; 56500~~

~~(2) An administrator at The director of job and family 56501
services and the staff of the department or the administrator's 56502
representative in the administration of the medicaid program; 56503~~

(3) The department's designee; 56504

(4) An individual who receives home and community-based services from the person who is the subject of the criminal records check; 56505
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(5) A court, hearing officer, or other necessary individual involved in a case dealing with a either of the following: 56508
56509

(a) A denial or termination of a provider agreement related to the criminal records check; 56510
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(b) A civil or criminal action regarding the medicaid program. 56512
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~~(G)~~(F) The department director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall specify circumstances under which the department or the department's designee may either ~~issue a provider agreement to an independent provider~~ approve an applicant's application or allow an independent provider to maintain an existing medicaid provider agreement ~~when~~ even though the applicant or independent provider ~~has~~ is found by a criminal records check required by this section to have been convicted of, ~~has~~ pleaded guilty to, or ~~has~~ been found eligible for intervention in lieu of conviction for ~~an offense listed or described in division (D)(1) or (2) of this section~~ a disqualifying offense. 56514
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Sec. 5111.06. (A)(1) As used in this section and in sections 5111.061 and 5111.063 of the Revised Code: 56527
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(a) "Provider" means any person, institution, or entity that furnishes medicaid services under a provider agreement with the department of job and family services pursuant to Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended. 56529
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(b) "Party" has the same meaning as in division (G) of section 119.01 of the Revised Code. 56534
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(c) "Adjudication" has the same meaning as in division (D) of section 119.01 of the Revised Code. 56536
56537

(2) This section does not apply to ~~any~~ either of the following: 56538
56539

(a) Any action taken or decision made by the department of job and family services with respect to entering into or refusing to enter into a contract with a managed care organization pursuant to section 5111.17 of the Revised Code; 56540
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(b) Any action taken by the department under ~~sections 5111.16 to 5111.177~~ or sections 5111.35 to 5111.62 of the Revised Code. 56544
56545

(B) Except as provided in division (D) of this section and section 5111.914 of the Revised Code, the department shall do either of the following by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code: 56546
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(1) Enter into or refuse to enter into a provider agreement with a provider, or suspend, terminate, renew, or refuse to renew an existing provider agreement with a provider; 56551
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(2) Take any action based upon a final fiscal audit of a provider. 56554
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(C) Any party who is adversely affected by the issuance of an adjudication order under division (B) of this section may appeal to the court of common pleas of Franklin county in accordance with section 119.12 of the Revised Code. 56556
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(D) The department is not required to comply with division (B)(1) of this section whenever any of the following occur: 56560
56561

(1) The terms of a provider agreement require the provider to hold a license, permit, or certificate or maintain a certification 56562
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issued by an official, board, commission, department, division, 56564
bureau, or other agency of state or federal government other than 56565
the department of job and family services, and the license, 56566
permit, certificate, or certification has been denied, revoked, 56567
not renewed, suspended, or otherwise limited. 56568

(2) The terms of a provider agreement require the provider to 56569
hold a license, permit, or certificate or maintain certification 56570
issued by an official, board, commission, department, division, 56571
bureau, or other agency of state or federal government other than 56572
the department of job and family services, and the provider has 56573
not obtained the license, permit, certificate, or certification. 56574

(3) The provider agreement is denied, terminated, or not 56575
renewed due to the termination, refusal to renew, or denial of a 56576
license, permit, certificate, or certification by an official, 56577
board, commission, department, division, bureau, or other agency 56578
of this state other than the department of job and family 56579
services, notwithstanding the fact that the provider may hold a 56580
license, permit, certificate, or certification from an official, 56581
board, commission, department, division, bureau, or other agency 56582
of another state. 56583

(4) The provider agreement is denied, terminated, or not 56584
renewed pursuant to division (C) or (F) of section 5111.03 of the 56585
Revised Code. 56586

(5) The provider agreement is denied, terminated, or not 56587
renewed due to the provider's termination, suspension, or 56588
exclusion from the medicare program established under Title XVIII 56589
of the "Social Security Act" or from another state's medicaid 56590
program and, in either case, the termination, suspension, or 56591
exclusion is binding on the provider's participation in the 56592
medicaid program in this state. 56593

(6) The provider agreement is denied, terminated, or not 56594

renewed due to the provider's pleading guilty to or being 56595
convicted of a criminal activity materially related to either the 56596
medicare or medicaid program. 56597

(7) The provider agreement is denied, terminated, or 56598
suspended as a result of action by the United States department of 56599
health and human services and that action is binding on the 56600
provider's participation in the medicaid program. 56601

(8) Pursuant to either section 5111.031 or 5111.035 of the 56602
Revised Code, the provider agreement is suspended and payments to 56603
the provider are suspended pending indictment of the provider. 56604

(9) The provider agreement is denied, terminated, or not 56605
renewed because the provider or its owner, officer, authorized 56606
agent, associate, manager, or employee has been convicted of one 56607
of the offenses that caused the provider agreement to be suspended 56608
pursuant to section 5111.031 of the Revised Code. 56609

(10) The provider agreement is converted under section 56610
5111.028 of the Revised Code from a provider agreement that is not 56611
time-limited to a provider agreement that is time-limited. 56612

(11) The provider agreement is terminated or an application 56613
for re-enrollment is denied because the provider has failed to 56614
apply for re-enrollment within the time or in the manner specified 56615
for re-enrollment pursuant to section 5111.028 of the Revised 56616
Code. 56617

(12) The provider agreement is suspended or terminated, or an 56618
application for enrollment or re-enrollment is denied, for any 56619
reason authorized or required by one or more of the following: 42 56620
C.F.R. 455.106, 455.23, 455.416, 455.434, or 455.450. 56621

(13) The provider agreement is terminated or not renewed 56622
because the provider has not billed or otherwise submitted a 56623
medicaid claim to the department for two years or longer. 56624

(14) The provider agreement is denied, terminated, or not renewed because the provider fails to provide to the department the national provider identifier assigned the provider by the national provider system pursuant to 45 C.F.R. 162.408.

In the case of a provider described in division (D)(13) or (14) of this section, the department may take its proposed action against a provider agreement by sending a notice explaining the proposed action to the provider. The notice shall be sent to the provider's address on record with the department. The notice may be sent by regular mail.

(E) The department may withhold payments for services rendered by a medicaid provider under the medicaid program during the pendency of proceedings initiated under division (B)(1) of this section. If the proceedings are initiated under division (B)(2) of this section, the department may withhold payments only to the extent that they equal amounts determined in a final fiscal audit as being due the state. This division does not apply if the department fails to comply with section 119.07 of the Revised Code, requests a continuance of the hearing, or does not issue a decision within thirty days after the hearing is completed. This division does not apply to nursing facilities and intermediate care facilities for the mentally retarded as defined in section 5111.20 of the Revised Code.

Sec. 5111.091. ~~Not later than the first day of each calendar quarter~~ Semiannually, the director of job and family services shall submit ~~a report~~ to the president and minority leader of the senate, speaker and minority leader of the house of representatives, and the chairpersons of the standing committees of the senate and house of representatives ~~that hear bills with primary responsibility for legislation~~ making biennial appropriations a report on the establishment and implementation of

programs designed to control the increase of the cost of the 56656
medicaid program, increase the efficiency of the medicaid program, 56657
and promote better health outcomes. In each calendar year, one 56658
report shall be submitted not later than the last day of June and 56659
the subsequent report shall be submitted not later than the last 56660
day of December. 56661

~~The report shall include information regarding all of the~~ 56662
~~following:~~ 56663

~~(A) Provider network management;~~ 56664

~~(B) Electronic claims submission and payment systems;~~ 56665

~~(C) Limited provider contracts and payments based on~~ 56666
~~performance;~~ 56667

~~(D) Efforts to enforce third party liability;~~ 56668

~~(E) Implementation of the medicaid information technology~~ 56669
~~system;~~ 56670

~~(F) Expansion of the medicaid data warehouse and decision~~ 56671
~~support system;~~ 56672

~~(G) Development of infrastructure policies for electronic~~ 56673
~~health records and e-prescribing.~~ 56674

Sec. 5111.113. (A) As used in this section: 56675

~~(1) "Adult care facility" has the same meaning as in section~~ 56676
~~5119.70 of the Revised Code.~~ 56677

~~(2) "Commissioner" means a person appointed by a probate~~ 56678
~~court under division (E) of section 2113.03 of the Revised Code to~~ 56679
~~act as a commissioner.~~ 56680

~~(3)(2) "Home" has the same meaning as in section 3721.10 of~~ 56681
~~the Revised Code.~~ 56682

~~(4)(3) "Personal needs allowance account" means an account or~~ 56683

petty cash fund that holds the money of a resident of an adult care facility or home and that the facility or home manages for the resident. 56684
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(4) "Residential facility" means a residential facility licensed under section 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults. 56687
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(B) Except as provided in divisions (C) and (D) of this section, the owner or operator of ~~an adult care facility or a home~~ or residential facility shall transfer to the department of job and family services the money in the personal needs allowance account of a resident of the ~~facility or home~~ or facility who was a recipient of the medical assistance program no earlier than sixty days but not later than ninety days after the resident dies. 56691
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(C) If funeral or burial expenses for a resident of ~~an adult care facility or a home~~ or residential facility who has died have not been paid and the only resource the resident had that could be used to pay for the expenses is the money in the resident's personal needs allowance account, or all other resources of the resident are inadequate to pay the full cost of the expenses, the money in the resident's personal needs allowance account shall be used to pay for the expenses rather than being transferred to the department of job and family services pursuant to division (B) of this section. 56702
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(D) If, not later than sixty days after a resident of ~~an adult care facility or a home~~ or residential facility dies, letters testamentary or letters of administration are issued, or an application for release from administration is filed under 56712
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section 2113.03 of the Revised Code, concerning the resident's 56716
estate, the owner or operator of the ~~facility or~~ home or facility 56717
shall transfer the money in the resident's personal needs 56718
allowance account to the administrator, executor, commissioner, or 56719
person who filed the application for release from administration. 56720

(E) The transfer or use of money in a resident's personal 56721
needs allowance account in accordance with division (B), (C), or 56722
(D) of this section discharges and releases the ~~adult care~~ 56723
~~facility or~~ home or residential facility, and the owner or 56724
operator of the ~~facility or~~ home, from any claim for the money 56725
from any source. 56726

(F) If, sixty-one or more days after a resident of an ~~adult~~ 56727
~~care facility or~~ a home or residential facility dies, letters 56728
testamentary or letters of administration are issued, or an 56729
application for release from administration under section 2113.03 56730
of the Revised Code is filed, concerning the resident's estate, 56731
the department of job and family services shall transfer the funds 56732
to the administrator, executor, commissioner, or person who filed 56733
the application, unless the department is entitled to recover the 56734
money under the medicaid estate recovery program instituted under 56735
section 5111.11 of the Revised Code. 56736

Sec. 5111.171. ~~(A)~~ The department of job and family services 56737
may provide financial incentive awards to managed care 56738
organizations under contract with the department pursuant to 56739
section 5111.17 of the Revised Code that meet or exceed 56740
performance standards specified in provider agreements or rules 56741
adopted by the department. The department may specify in a 56742
contract with a managed care organization the amounts of financial 56743
incentive awards, methodology for distributing awards, types of 56744
awards, and standards for administration by the department. 56745

~~(B) There is hereby created in the state treasury the health 56746~~

~~care compliance fund. The fund shall consist of all fines imposed 56747
on and collected from managed care organizations for failure to 56748
meet performance standards or other requirements specified in 56749
provider agreements or rules adopted by the department. All 56750
investment earnings of the fund shall be credited to the fund. 56751
Moneys credited to the fund shall be used solely for the following 56752
purposes: 56753~~

~~(1) To reimburse managed care organizations that have paid 56754
fines for failures to meet performance standards or other 56755
requirements and that have come into compliance by meeting 56756
requirements as specified by the department; 56757~~

~~(2) To provide financial incentive awards established 56758
pursuant to division (A) of this section and specified in 56759
contracts between managed care organizations and the department. 56760~~

Sec. 5111.20. As used in sections 5111.20 to 5111.331 of the 56761
Revised Code: 56762

(A) "Allowable costs" are those costs determined by the 56763
department of job and family services to be reasonable and do not 56764
include fines paid under sections 5111.35 to 5111.61 and section 56765
5111.99 of the Revised Code. 56766

(B) "Ancillary and support costs" means all reasonable costs 56767
incurred by a nursing facility other than direct care costs, tax 56768
costs, or capital costs. "Ancillary and support costs" includes, 56769
but is not limited to, costs of activities, social services, 56770
pharmacy consultants, habilitation supervisors, qualified mental 56771
retardation professionals, program directors, medical and 56772
habilitation records, program supplies, incontinence supplies, 56773
food, enterals, dietary supplies and personnel, laundry, 56774
housekeeping, security, administration, medical equipment, 56775
utilities, liability insurance, bookkeeping, purchasing 56776
department, human resources, communications, travel, dues, license 56777

fees, subscriptions, home office costs not otherwise allocated, 56778
legal services, accounting services, minor equipment, ~~wheelchairs,~~ 56779
~~resident transportation,~~ maintenance and repairs, help-wanted 56780
advertising, informational advertising, start-up costs, 56781
organizational expenses, other interest, property insurance, 56782
employee training and staff development, employee benefits, 56783
payroll taxes, and workers' compensation premiums or costs for 56784
self-insurance claims and related costs as specified in rules 56785
adopted by the director of job and family services under section 56786
5111.02 of the Revised Code, for personnel listed in this 56787
division. "Ancillary and support costs" also means the cost of 56788
equipment, including vehicles, acquired by operating lease 56789
executed before December 1, 1992, if the costs are reported as 56790
administrative and general costs on the facility's cost report for 56791
the cost reporting period ending December 31, 1992. 56792

(C) "Capital costs" means costs of ownership and, in the case 56793
of an intermediate care facility for the mentally retarded, costs 56794
of nonextensive renovation. 56795

(1) "Cost of ownership" means the actual expense incurred for 56796
all of the following: 56797

(a) Depreciation and interest on any capital assets that cost 56798
five hundred dollars or more per item, including the following: 56799

(i) Buildings; 56800

(ii) Building improvements that are not approved as 56801
nonextensive renovations under section 5111.251 of the Revised 56802
Code; 56803

(iii) Except as provided in division (B) of this section, 56804
equipment; 56805

(iv) In the case of an intermediate care facility for the 56806
mentally retarded, extensive renovations; 56807

(v) Transportation equipment.	56808
(b) Amortization and interest on land improvements and leasehold improvements;	56809 56810
(c) Amortization of financing costs;	56811
(d) Except as provided in division (K) of this section, lease and rent of land, building, and equipment.	56812 56813
The costs of capital assets of less than five hundred dollars per item may be considered capital costs in accordance with a provider's practice.	56814 56815 56816
(2) "Costs of nonextensive renovation" means the actual expense incurred by an intermediate care facility for the mentally retarded for depreciation or amortization and interest on renovations that are not extensive renovations.	56817 56818 56819 56820
(D) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.	56821 56822
(E) "Case-mix score" means the measure determined under section 5111.232 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a resident of a nursing facility or intermediate care facility for the mentally retarded.	56823 56824 56825 56826 56827
(F)(1) "Date of licensure," for a facility originally licensed as a nursing home under Chapter 3721. of the Revised Code, means the date specific beds were originally licensed as nursing home beds under that chapter, regardless of whether they were subsequently licensed as residential facility beds under section 5123.19 of the Revised Code. For a facility originally licensed as a residential facility under section 5123.19 of the Revised Code, "date of licensure" means the date specific beds were originally licensed as residential facility beds under that section.	56828 56829 56830 56831 56832 56833 56834 56835 56836 56837

If nursing home beds licensed under Chapter 3721. of the 56838
Revised Code or residential facility beds licensed under section 56839
5123.19 of the Revised Code were not required by law to be 56840
licensed when they were originally used to provide nursing home or 56841
residential facility services, "date of licensure" means the date 56842
the beds first were used to provide nursing home or residential 56843
facility services, regardless of the date the present provider 56844
obtained licensure. 56845

If a facility adds nursing home beds or residential facility 56846
beds or extensively renovates all or part of the facility after 56847
its original date of licensure, it will have a different date of 56848
licensure for the additional beds or extensively renovated portion 56849
of the facility, unless the beds are added in a space that was 56850
constructed at the same time as the previously licensed beds but 56851
was not licensed under Chapter 3721. or section 5123.19 of the 56852
Revised Code at that time. 56853

(2) The definition of "date of licensure" in this section 56854
applies in determinations of the medicaid reimbursement rate for a 56855
nursing facility or intermediate care facility for the mentally 56856
retarded but does not apply in determinations of the franchise 56857
permit fee for a nursing facility or intermediate care facility 56858
for the mentally retarded. 56859

(G) "Desk-reviewed" means that costs as reported on a cost 56860
report submitted under section 5111.26 of the Revised Code have 56861
been subjected to a desk review under division (A) of section 56862
5111.27 of the Revised Code and preliminarily determined to be 56863
allowable costs. 56864

(H) "Direct care costs" means all of the following: 56865

(1)(a) Costs for registered nurses, licensed practical 56866
nurses, and nurse aides employed by the facility; 56867

(b) Costs for direct care staff, administrative nursing 56868

staff, medical directors, respiratory therapists, and except as 56869
provided in division (H)(2) of this section, other persons holding 56870
degrees qualifying them to provide therapy; 56871

(c) Costs of purchased nursing services; 56872

(d) Costs of quality assurance; 56873

(e) Costs of training and staff development, employee 56874
benefits, payroll taxes, and workers' compensation premiums or 56875
costs for self-insurance claims and related costs as specified in 56876
rules adopted by the director of job and family services in 56877
accordance with Chapter 119. of the Revised Code, for personnel 56878
listed in divisions (H)(1)(a), (b), and (d) of this section; 56879

(f) Costs of consulting and management fees related to direct 56880
care; 56881

(g) Allocated direct care home office costs. 56882

(2) In addition to the costs specified in division (H)(1) of 56883
this section, for nursing facilities only, direct care costs 56884
include costs of habilitation staff (other than habilitation 56885
supervisors), medical supplies, oxygen, over-the-counter pharmacy 56886
products, behavioral and mental health services, physical 56887
therapists, physical therapy assistants, occupational therapists, 56888
occupational therapy assistants, speech therapists, audiologists, 56889
habilitation supplies, wheelchairs, resident transportation, and 56890
universal precautions supplies. 56891

(3) In addition to the costs specified in division (H)(1) of 56892
this section, for intermediate care facilities for the mentally 56893
retarded only, direct care costs include both of the following: 56894

(a) Costs for physical therapists and physical therapy 56895
assistants, occupational therapists and occupational therapy 56896
assistants, speech therapists, audiologists, habilitation staff 56897
(including habilitation supervisors), qualified mental retardation 56898

professionals, program directors, social services staff, 56899
activities staff, off-site day programming, psychologists and 56900
psychology assistants, and social workers and counselors; 56901

(b) Costs of training and staff development, employee 56902
benefits, payroll taxes, and workers' compensation premiums or 56903
costs for self-insurance claims and related costs as specified in 56904
rules adopted under section 5111.02 of the Revised Code, for 56905
personnel listed in division (H)(3)(a) of this section. 56906

(4) Costs of other direct-care resources that are specified 56907
as direct care costs in rules adopted under section 5111.02 of the 56908
Revised Code. 56909

(I) "Fiscal year" means the fiscal year of this state, as 56910
specified in section 9.34 of the Revised Code. 56911

(J) "Franchise permit fee" means the following: 56912

(1) In the context of nursing facilities, the fee imposed by 56913
sections 3721.50 to 3721.58 of the Revised Code; 56914

(2) In the context of intermediate care facilities for the 56915
mentally retarded, the fee imposed by sections 5112.30 to 5112.39 56916
of the Revised Code. 56917

(K) "Indirect care costs" means all reasonable costs incurred 56918
by an intermediate care facility for the mentally retarded other 56919
than direct care costs, other protected costs, or capital costs. 56920
"Indirect care costs" includes but is not limited to costs of 56921
habilitation supplies, pharmacy consultants, medical and 56922
habilitation records, program supplies, incontinence supplies, 56923
food, enterals, dietary supplies and personnel, laundry, 56924
housekeeping, security, administration, liability insurance, 56925
bookkeeping, purchasing department, human resources, 56926
communications, travel, dues, license fees, subscriptions, home 56927
office costs not otherwise allocated, legal services, accounting 56928
services, minor equipment, maintenance and repairs, help-wanted 56929

advertising, informational advertising, start-up costs, 56930
organizational expenses, other interest, property insurance, 56931
employee training and staff development, employee benefits, 56932
payroll taxes, and workers' compensation premiums or costs for 56933
self-insurance claims and related costs as specified in rules 56934
adopted under section 5111.02 of the Revised Code, for personnel 56935
listed in this division. Notwithstanding division (C)(1) of this 56936
section, "indirect care costs" also means the cost of equipment, 56937
including vehicles, acquired by operating lease executed before 56938
December 1, 1992, if the costs are reported as administrative and 56939
general costs on the facility's cost report for the cost reporting 56940
period ending December 31, 1992. 56941

(L) "Inpatient days" means ~~all~~ the following: 56942

(1) In the context of a nursing facility, both of the 56943
following: 56944

(a) All days during which a resident, regardless of payment 56945
source, occupies a bed in a nursing facility ~~or intermediate care~~ 56946
~~facility for the mentally retarded~~ that is included in the nursing 56947
facility's certified capacity under Title XIX. ~~Therapeutic or~~ 56948
~~hospital leave~~; 56949

(b) Fifty per cent of the days for which payment is made 56950
under section ~~5111.33~~ or 5111.331 of the Revised Code ~~are~~ 56951
~~considered inpatient days proportionate to the percentage of the~~ 56952
~~facility's per resident per day rate paid for those days.~~ 56953

(2) In the context of an intermediate care facility for the 56954
mentally retarded, both of the following: 56955

(a) All days during which a resident, regardless of payment 56956
source, occupies a bed in an intermediate care facility for the 56957
mentally retarded that is included in the facility's certified 56958
capacity under Title XIX; 56959

(b) All days for which payment is made under section 5111.33 56960

of the Revised Code. 56961

(M) "Intermediate care facility for the mentally retarded" 56962
means an intermediate care facility for the mentally retarded 56963
certified as in compliance with applicable standards for the 56964
medicaid program by the director of health in accordance with 56965
Title XIX. 56966

(N) "Maintenance and repair expenses" means, except as 56967
provided in division (BB)(2) of this section, expenditures that 56968
are necessary and proper to maintain an asset in a normally 56969
efficient working condition and that do not extend the useful life 56970
of the asset two years or more. "Maintenance and repair expenses" 56971
includes but is not limited to the cost of ordinary repairs such 56972
as painting and wallpapering. 56973

(O) "Medicaid days" means ~~all~~ the following: 56974

(1) In the context of a nursing facility, both of the 56975
following: 56976

(a) All days during which a resident who is a medicaid 56977
recipient eligible for nursing facility services occupies a bed in 56978
a nursing facility that is included in the nursing facility's 56979
certified capacity under Title XIX. ~~Therapeutic or hospital leave;~~ 56980

(b) Fifty per cent of the days for which payment is made 56981
under section ~~5111.33~~ or 5111.331 of the Revised Code ~~are~~ 56982
~~considered medicaid days proportionate to the percentage of the~~ 56983
~~nursing facility's per resident per day rate paid for those days.~~ 56984

(2) In the context of an intermediate care facility for the 56985
mentally retarded, both of the following: 56986

(a) All days during which a resident who is a medicaid 56987
recipient eligible for intermediate care facility for the mentally 56988
retarded services occupies a bed in an intermediate care facility 56989
for the mentally retarded that is included in the facility's 56990

<u>certified capacity under Title XIX;</u>	56991
<u>(b) All days for which payment is made under section 5111.33</u>	56992
<u>of the Revised Code.</u>	56993
(P) "Nursing facility" means a facility, or a distinct part	56994
of a facility, that is certified as a nursing facility by the	56995
director of health in accordance with Title XIX and is not an	56996
intermediate care facility for the mentally retarded. "Nursing	56997
facility" includes a facility, or a distinct part of a facility,	56998
that is certified as a nursing facility by the director of health	56999
in accordance with Title XIX and is certified as a skilled nursing	57000
facility by the director in accordance with Title XVIII.	57001
(Q) "Operator" means the person or government entity	57002
responsible for the daily operating and management decisions for a	57003
nursing facility or intermediate care facility for the mentally	57004
retarded.	57005
(R) "Other protected costs" means costs incurred by an	57006
intermediate care facility for the mentally retarded for medical	57007
supplies; real estate, franchise, and property taxes; natural gas,	57008
fuel oil, water, electricity, sewage, and refuse and hazardous	57009
medical waste collection; allocated other protected home office	57010
costs; and any additional costs defined as other protected costs	57011
in rules adopted under section 5111.02 of the Revised Code.	57012
(S)(1) "Owner" means any person or government entity that has	57013
at least five per cent ownership or interest, either directly,	57014
indirectly, or in any combination, in any of the following	57015
regarding a nursing facility or intermediate care facility for the	57016
mentally retarded:	57017
(a) The land on which the facility is located;	57018
(b) The structure in which the facility is located;	57019
(c) Any mortgage, contract for deed, or other obligation	57020

secured in whole or in part by the land or structure on or in 57021
which the facility is located; 57022

(d) Any lease or sublease of the land or structure on or in 57023
which the facility is located. 57024

(2) "Owner" does not mean a holder of a debenture or bond 57025
related to the nursing facility or intermediate care facility for 57026
the mentally retarded and purchased at public issue or a regulated 57027
lender that has made a loan related to the facility unless the 57028
holder or lender operates the facility directly or through a 57029
subsidiary. 57030

(T) "Patient" includes "resident." 57031

(U) Except as provided in divisions (U)(1) and (2) of this 57032
section, "per diem" means a nursing facility's or intermediate 57033
care facility for the mentally retarded's actual, allowable costs 57034
in a given cost center in a cost reporting period, divided by the 57035
facility's inpatient days for that cost reporting period. 57036

(1) When calculating indirect care costs for the purpose of 57037
establishing rates under section 5111.241 of the Revised Code, 57038
"per diem" means an intermediate care facility for the mentally 57039
retarded's actual, allowable indirect care costs in a cost 57040
reporting period divided by the greater of the facility's 57041
inpatient days for that period or the number of inpatient days the 57042
facility would have had during that period if its occupancy rate 57043
had been eighty-five per cent. 57044

(2) When calculating capital costs for the purpose of 57045
establishing rates under section 5111.251 of the Revised Code, 57046
"per diem" means a facility's actual, allowable capital costs in a 57047
cost reporting period divided by the greater of the facility's 57048
inpatient days for that period or the number of inpatient days the 57049
facility would have had during that period if its occupancy rate 57050
had been ninety-five per cent. 57051

(V) "Provider" means an operator with a provider agreement. 57052

(W) "Provider agreement" means a contract between the 57053
department of job and family services and the operator of a 57054
nursing facility or intermediate care facility for the mentally 57055
retarded for the provision of nursing facility services or 57056
intermediate care facility services for the mentally retarded 57057
under the medicaid program. 57058

(X) "Purchased nursing services" means services that are 57059
provided in a nursing facility by registered nurses, licensed 57060
practical nurses, or nurse aides who are not employees of the 57061
facility. 57062

(Y) "Reasonable" means that a cost is an actual cost that is 57063
appropriate and helpful to develop and maintain the operation of 57064
patient care facilities and activities, including normal standby 57065
costs, and that does not exceed what a prudent buyer pays for a 57066
given item or services. Reasonable costs may vary from provider to 57067
provider and from time to time for the same provider. 57068

(Z) "Related party" means an individual or organization that, 57069
to a significant extent, has common ownership with, is associated 57070
or affiliated with, has control of, or is controlled by, the 57071
provider. 57072

(1) An individual who is a relative of an owner is a related 57073
party. 57074

(2) Common ownership exists when an individual or individuals 57075
possess significant ownership or equity in both the provider and 57076
the other organization. Significant ownership or equity exists 57077
when an individual or individuals possess five per cent ownership 57078
or equity in both the provider and a supplier. Significant 57079
ownership or equity is presumed to exist when an individual or 57080
individuals possess ten per cent ownership or equity in both the 57081
provider and another organization from which the provider 57082

purchases or leases real property. 57083

(3) Control exists when an individual or organization has the 57084
power, directly or indirectly, to significantly influence or 57085
direct the actions or policies of an organization. 57086

(4) An individual or organization that supplies goods or 57087
services to a provider shall not be considered a related party if 57088
all of the following conditions are met: 57089

(a) The supplier is a separate bona fide organization. 57090

(b) A substantial part of the supplier's business activity of 57091
the type carried on with the provider is transacted with others 57092
than the provider and there is an open, competitive market for the 57093
types of goods or services the supplier furnishes. 57094

(c) The types of goods or services are commonly obtained by 57095
other nursing facilities or intermediate care facilities for the 57096
mentally retarded from outside organizations and are not a basic 57097
element of patient care ordinarily furnished directly to patients 57098
by the facilities. 57099

(d) The charge to the provider is in line with the charge for 57100
the goods or services in the open market and no more than the 57101
charge made under comparable circumstances to others by the 57102
supplier. 57103

(AA) "Relative of owner" means an individual who is related 57104
to an owner of a nursing facility or intermediate care facility 57105
for the mentally retarded by one of the following relationships: 57106

(1) Spouse; 57107

(2) Natural parent, child, or sibling; 57108

(3) Adopted parent, child, or sibling; 57109

(4) Stepparent, stepchild, stepbrother, or stepsister; 57110

(5) Father-in-law, mother-in-law, son-in-law, 57111

daughter-in-law, brother-in-law, or sister-in-law; 57112

(6) Grandparent or grandchild; 57113

(7) Foster caregiver, foster child, foster brother, or foster 57114
sister. 57115

(BB) "Renovation" and "extensive renovation" mean: 57116

(1) Any betterment, improvement, or restoration of an 57117
intermediate care facility for the mentally retarded started 57118
before July 1, 1993, that meets the definition of a renovation or 57119
extensive renovation established in rules adopted by the director 57120
of job and family services in effect on December 22, 1992. 57121

(2) In the case of betterments, improvements, and 57122
restorations of intermediate care facilities for the mentally 57123
retarded started on or after July 1, 1993: 57124

(a) "Renovation" means the betterment, improvement, or 57125
restoration of an intermediate care facility for the mentally 57126
retarded beyond its current functional capacity through a 57127
structural change that costs at least five hundred dollars per 57128
bed. A renovation may include betterment, improvement, 57129
restoration, or replacement of assets that are affixed to the 57130
building and have a useful life of at least five years. A 57131
renovation may include costs that otherwise would be considered 57132
maintenance and repair expenses if they are an integral part of 57133
the structural change that makes up the renovation project. 57134
"Renovation" does not mean construction of additional space for 57135
beds that will be added to a facility's licensed or certified 57136
capacity. 57137

(b) "Extensive renovation" means a renovation that costs more 57138
than sixty-five per cent and no more than eighty-five per cent of 57139
the cost of constructing a new bed and that extends the useful 57140
life of the assets for at least ten years. 57141

For the purposes of division (BB)(2) of this section, the
cost of constructing a new bed shall be considered to be forty
thousand dollars, adjusted for the estimated rate of inflation
from January 1, 1993, to the end of the calendar year during which
the renovation is completed, using the consumer price index for
shelter costs for all urban consumers for the north central
region, as published by the United States bureau of labor
statistics.

The department of job and family services may treat a
renovation that costs more than eighty-five per cent of the cost
of constructing new beds as an extensive renovation if the
department determines that the renovation is more prudent than
construction of new beds.

(CC) "Tax costs" means the costs of taxes imposed under
Chapter 5751. of the Revised Code, real estate taxes, personal
property taxes, and corporate franchise taxes.

(DD) "Title XIX" means Title XIX of the "Social Security
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.

~~(DD)~~(EE) "Title XVIII" means Title XVIII of the "Social
Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

Sec. 5111.222. (A) Except as otherwise provided by sections
5111.20 to 5111.331 of the Revised Code and by division (B) of
this section, the total rate that the department of job and family
services shall agree to pay for a fiscal year to the provider of a
nursing facility pursuant to a provider agreement shall equal the
sum of all of the following:

(1) The rate for direct care costs determined for the nursing
facility under section 5111.231 of the Revised Code;

(2) The rate for ancillary and support costs determined for
the nursing facility's ancillary and support cost peer group under

section 5111.24 of the Revised Code;	57172
(3) The rate for tax costs determined for the nursing facility under section 5111.242 of the Revised Code;	57173 57174
(4) The quality incentive payment paid to the nursing facility under section 5111.244 of the Revised Code;	57175 57176
(5) <u>If the nursing facility qualifies as a critical access nursing facility, the critical access incentive payment paid to the nursing facility under section 5111.246 of the Revised Code;</u>	57177 57178 57179
(6) The rate for capital costs determined for the nursing facility's capital costs peer group under section 5111.25 of the Revised Code.	57180 57181 57182
(B) The department shall adjust the rates otherwise determined under division (A) of this section as directed by the general assembly through the enactment of law governing medicaid payments to providers of nursing facilities, including any law that establishes factors by which the rates are to be adjusted.	57183 57184 57185 57186 57187
(C) In addition to paying a nursing facility provider the total rate determined for the nursing facility under division (A) of this section for a fiscal year, the department shall pay the provider a quality bonus under section 5111.245 of the Revised Code for that fiscal year if the provider's nursing facility is a qualifying nursing facility, as defined in that section, for that fiscal year. The quality bonus shall not be part of the total rate.	57188 57189 57190 57191 57192 57193 57194 57195
Sec. 5111.23. (A) The department of job and family services shall pay a provider for each of the provider's eligible intermediate care facilities for the mentally retarded a per resident per day rate for direct care costs established prospectively for each facility. The department shall establish each facility's rate for direct care costs quarterly.	57196 57197 57198 57199 57200 57201

(B) Each facility's rate for direct care costs shall be based 57202
on the facility's cost per case-mix unit, subject to the maximum 57203
costs per case-mix unit established under division (B)(2) of this 57204
section, from the calendar year preceding the fiscal year in which 57205
the rate is paid. To determine the rate, the department shall do 57206
all of the following: 57207

(1) Determine each facility's cost per case-mix unit for the 57208
calendar year preceding the fiscal year in which the rate will be 57209
paid by dividing the facility's desk-reviewed, actual, allowable, 57210
per diem direct care costs for that year by its average case-mix 57211
score determined under section 5111.232 of the Revised Code for 57212
the same calendar year. 57213

(2)(a) Set the maximum cost per case-mix unit for each peer 57214
group of intermediate care facilities for the mentally retarded 57215
with more than eight beds specified in rules adopted under 57216
division (F) of this section at a percentage above the cost per 57217
case-mix unit of the facility in the group that has the group's 57218
median medicaid ~~inpatient~~ day for the calendar year preceding the 57219
fiscal year in which the rate will be paid, as calculated under 57220
division (B)(1) of this section, that is no less than the 57221
percentage calculated under division (E)(2) of this section. 57222

(b) Set the maximum cost per case-mix unit for each peer 57223
group of intermediate care facilities for the mentally retarded 57224
with eight or fewer beds specified in rules adopted under division 57225
(F) of this section at a percentage above the cost per case-mix 57226
unit of the facility in the group that has the group's median 57227
medicaid ~~inpatient~~ day for the calendar year preceding the fiscal 57228
year in which the rate will be paid, as calculated under division 57229
(B)(1) of this section, that is no less than the percentage 57230
calculated under division (E)(3) of this section. 57231

(c) In calculating the maximum cost per case-mix unit under 57232
divisions (B)(2)(a) and (b) of this section for each peer group, 57233

the department shall exclude from its calculations the cost per 57234
case-mix unit of any facility in the group that participated in 57235
the medicaid program under the same operator for less than twelve 57236
months during the calendar year preceding the fiscal year in which 57237
the rate will be paid. 57238

(3) Estimate the rate of inflation for the eighteen-month 57239
period beginning on the first day of July of the calendar year 57240
preceding the fiscal year in which the rate will be paid and 57241
ending on the thirty-first day of December of the fiscal year in 57242
which the rate will be paid, using the index specified in division 57243
(C) of this section. If the estimated inflation rate for the 57244
eighteen-month period is different from the actual inflation rate 57245
for that period, as measured using the same index, the difference 57246
shall be added to or subtracted from the inflation rate estimated 57247
under division (B)(3) of this section for the following fiscal 57248
year. 57249

(4) The department shall not recalculate a maximum cost per 57250
case-mix unit under division (B)(2) of this section or a 57251
percentage under division (E) of this section based on additional 57252
information that it receives after the maximum costs per case-mix 57253
unit or percentages are set. The department shall recalculate a 57254
maximum cost per case-mix units or percentage only if it made an 57255
error in computing the maximum cost per case-mix unit or 57256
percentage based on information available at the time of the 57257
original calculation. 57258

(C) The department shall use the following index for the 57259
purpose of division (B)(3) of this section: 57260

(1) The employment cost index for total compensation, health 57261
services component, published by the United States bureau of labor 57262
statistics; 57263

(2) If the United States bureau of labor statistics ceases to 57264

publish the index specified in division (C)(1) of this section, 57265
the index that is subsequently published by the bureau and covers 57266
nursing facilities' staff costs. 57267

(D) Each facility's rate for direct care costs shall be 57268
determined as follows for each calendar quarter within a fiscal 57269
year: 57270

(1) Multiply the lesser of the following by the facility's 57271
average case-mix score determined under section 5111.232 of the 57272
Revised Code for the calendar quarter that preceded the 57273
immediately preceding calendar quarter: 57274

(a) The facility's cost per case-mix unit for the calendar 57275
year preceding the fiscal year in which the rate will be paid, as 57276
determined under division (B)(1) of this section; 57277

(b) The maximum cost per case-mix unit established for the 57278
fiscal year in which the rate will be paid for the facility's peer 57279
group under division (B)(2) of this section; 57280

(2) Adjust the product determined under division (D)(1) of 57281
this section by the inflation rate estimated under division (B)(3) 57282
of this section. 57283

(E)(1) The department shall calculate the percentage above 57284
the median cost per case-mix unit determined under division (B)(1) 57285
of this section for the facility that has the median medicaid 57286
~~inpatient~~ day for calendar year 1992 for all intermediate care 57287
facilities for the mentally retarded with more than eight beds 57288
that would result in payment of all desk-reviewed, actual, 57289
allowable direct care costs for eighty and one-half per cent of 57290
the medicaid ~~inpatient~~ days for such facilities for calendar year 57291
1992. 57292

(2) The department shall calculate the percentage above the 57293
median cost per case-mix unit determined under division (B)(1) of 57294
this section for the facility that has the median medicaid 57295

~~inpatient~~ day for calendar year 1992 for all intermediate care 57296
facilities for the mentally retarded with eight or fewer beds that 57297
would result in payment of all desk-reviewed, actual, allowable 57298
direct care costs for eighty and one-half per cent of the medicaid 57299
~~inpatient~~ days for such facilities for calendar year 1992. 57300

(F) The director of job and family services shall adopt rules 57301
under section 5111.02 of the Revised Code that specify peer groups 57302
of intermediate care facilities for the mentally retarded with 57303
more than eight beds and intermediate care facilities for the 57304
mentally retarded with eight or fewer beds, based on findings of 57305
significant per diem direct care cost differences due to geography 57306
and facility bed-size. The rules also may specify peer groups 57307
based on findings of significant per diem direct care cost 57308
differences due to other factors which may include case-mix. 57309

(G) The department, in accordance with division (D) of 57310
section 5111.232 of the Revised Code and rules adopted under 57311
division (F) of that section, may assign case-mix scores or costs 57312
per case-mix unit if a provider fails to submit assessment data 57313
necessary to calculate an intermediate care facility for the 57314
mentally retarded's case-mix score in accordance with that 57315
section. 57316

Sec. 5111.242. (A) As used in this section: 57317

~~(1)~~ ~~Applicable~~, "applicable" calendar year" means the 57318
following: 57319

~~(a)~~ (1) For the purpose of the department of job and family 57320
services' initial determination under this section of nursing 57321
facilities' rate for tax costs, calendar year 2003; 57322

~~(b)~~ (2) For the purpose of the department's subsequent 57323
determinations under division (C) of this section of nursing 57324
facilities' rate for tax costs, the calendar year the department 57325

selects. 57326

~~(2) "Tax costs" means the costs of taxes imposed under 57327
Chapter 5751. of the Revised Code, real estate taxes, personal 57328
property taxes, and corporate franchise taxes. 57329~~

(B) The department of job and family services shall pay a 57330
provider for each of the provider's eligible nursing facilities a 57331
per resident per day rate for tax costs determined under division 57332
(C) of this section. 57333

(C) At least once every ten years, the department shall 57334
determine the rate for tax costs for each nursing facility. The 57335
rate for tax costs determined under this division for a nursing 57336
facility shall be used for subsequent years until the department 57337
redetermines it. To determine a nursing facility's rate for tax 57338
costs and except as provided in division (D) of this section, the 57339
department shall divide the nursing facility's desk-reviewed, 57340
actual, allowable tax costs paid for the applicable calendar year 57341
by the number of inpatient days the nursing facility would have 57342
had if its occupancy rate had been one hundred per cent during the 57343
applicable calendar year. 57344

(D) If a nursing facility had a credit regarding its real 57345
estate taxes reflected on its cost report for calendar year 2003, 57346
the department shall determine its rate for tax costs for the 57347
period beginning on July 1, 2010, and ending on the first day of 57348
the fiscal year for which the department first redetermines all 57349
nursing facilities' rate for tax costs under division (C) of this 57350
section by dividing the nursing facility's desk-reviewed, actual, 57351
allowable tax costs paid for calendar year 2004 by the number of 57352
inpatient days the nursing facility would have had if its 57353
occupancy rate had been one hundred per cent during calendar year 57354
2004. 57355

Sec. 5111.246. (A) Each fiscal year, the department of job 57356

and family services shall pay a critical access incentive payment 57357
to the provider of each nursing facility that qualifies as a 57358
critical access nursing facility. To qualify as a critical access 57359
nursing facility for a fiscal year, a nursing facility must meet 57360
all of the following requirements: 57361

(1) The nursing facility must be located in an area that, on 57362
December 31, 2011, was designated an empowerment zone under 57363
section 1391 of the "Internal Revenue Code of 1986," 107 Stat. 57364
543, 26 U.S.C. 1391, as amended. 57365

(2) The nursing facility must have an occupancy rate of at 57366
least eighty-five per cent as of the last day of the calendar year 57367
preceding the fiscal year. 57368

(3) The nursing facility must have a medicaid utilization 57369
rate of at least sixty-five per cent as of the last day of the 57370
calendar year preceding the fiscal year. 57371

(B) A critical access nursing facility's critical access 57372
incentive payment for a fiscal year shall equal five per cent of 57373
the portion of the nursing facility's total rate for the fiscal 57374
year that is the sum of the rates and payment identified in 57375
divisions (A)(1) to (4) and (6) of section 5111.222 of the Revised 57376
Code. 57377

Sec. 5111.254. (A) The department of job and family services 57378
shall establish initial rates for a nursing facility with a first 57379
date of licensure that is on or after July 1, 2006, including a 57380
facility that replaces one or more existing facilities, or for a 57381
nursing facility with a first date of licensure before that date 57382
that was initially certified for the medicaid program on or after 57383
that date, in the following manner: 57384

(1) The rate for direct care costs shall be the product of 57385
the cost per case-mix unit determined under division (D) of 57386

section 5111.231 of the Revised Code for the facility's peer group 57387
and the nursing facility's case-mix score. For the purpose of 57388
division (A)(1) of this section, the nursing facility's case-mix 57389
score shall be the following: 57390

(a) Unless the nursing facility replaces an existing nursing 57391
facility that participated in the medicaid program immediately 57392
before the replacement nursing facility begins participating in 57393
the medicaid program, the median annual average case-mix score for 57394
the nursing facility's peer group; 57395

(b) If the nursing facility replaces an existing nursing 57396
facility that participated in the medicaid program immediately 57397
before the replacement nursing facility begins participating in 57398
the medicaid program, the semiannual case-mix score most recently 57399
determined under section 5111.232 of the Revised Code for the 57400
replaced nursing facility as adjusted, if necessary, to reflect 57401
any difference in the number of beds in the replaced and 57402
replacement nursing facilities. 57403

(2) The rate for ancillary and support costs shall be the 57404
rate for the facility's peer group determined under division (D) 57405
of section 5111.24 of the Revised Code. 57406

(3) The rate for capital costs shall be the rate for the 57407
facility's peer group determined under division (D) of section 57408
5111.25 of the Revised Code. 57409

(4) The rate for tax costs ~~as defined in section 5111.242 of~~ 57410
~~the Revised Code~~ shall be the median rate for tax costs for the 57411
facility's peer group in which the facility is placed under 57412
division (C) of section 5111.24 of the Revised Code. 57413

(5) The quality incentive payment shall be the mean payment 57414
made to nursing facilities under section 5111.244 of the Revised 57415
Code. 57416

(B) Subject to division (C) of this section, the department 57417

shall adjust the rates established under division (A) of this 57418
section effective the first day of July, to reflect new rate 57419
calculations for all nursing facilities under sections 5111.20 to 57420
5111.331 of the Revised Code. 57421

(C) If a rate for direct care costs is determined under this 57422
section for a nursing facility using the median annual average 57423
case-mix score for the nursing facility's peer group, the rate 57424
shall be redetermined to reflect the replacement nursing 57425
facility's actual semiannual case-mix score determined under 57426
section 5111.232 of the Revised Code after the nursing facility 57427
submits its first two quarterly assessment data that qualify for 57428
use in calculating a case-mix score in accordance with rules 57429
authorized by division (E) of section 5111.232 of the Revised 57430
Code. If the nursing facility's quarterly submissions do not 57431
qualify for use in calculating a case-mix score, the department 57432
shall continue to use the median annual average case-mix score for 57433
the nursing facility's peer group in lieu of the nursing 57434
facility's semiannual case-mix score until the nursing facility 57435
submits two consecutive quarterly assessment data that qualify for 57436
use in calculating a case-mix score. 57437

Sec. 5111.862. (A) As used in this section: 57438

"Hospital long-term care unit" has the same meaning as in 57439
section 3721.50 of the Revised Code. 57440

"Nursing facility" has the same meaning as in section 5111.20 57441
of the Revised Code. 57442

"Ohio home care program" means the medicaid waiver component 57443
created under section 5111.861 of the Revised Code. 57444

"Residential treatment facility" means a residential facility 57445
licensed by the department of mental health under section 5119.22 57446
of the Revised Code, or an institution certified by the department 57447

of job and family services under section 5103.03 of the Revised Code, that serves children and either has more than sixteen beds or is part of a campus of multiple facilities or institutions that, combined, have a total of more than sixteen beds.

(B) Subject to division (C) of section 5111.861 of the Revised Code, the department of job and family services shall establish a home first component for the Ohio home care program. An individual is eligible for the Ohio home care program's home first component if the individual has been determined to be eligible for the Ohio home care program and at least one of the following applies:

(1) If the individual is under twenty-one years of age, the individual received inpatient hospital services for at least fourteen consecutive days, or had at least three inpatient hospital stays during the twelve months, immediately preceding the date the individual applies for the Ohio home care program.

(2) If the individual is at least twenty-one but less than sixty years of age, the individual received inpatient hospital services for at least fourteen consecutive days immediately preceding the date the individual applies for the Ohio home care program.

(3) The individual received private duty nursing services under the medicaid program for at least twelve consecutive months immediately preceding the date the individual applies for the Ohio home care program.

(4) The individual does not reside in a nursing facility or hospital long-term care unit at the time the individual applies for the Ohio home care program but is at risk of imminent admission to a nursing facility or hospital long-term care unit due to a documented loss of a primary caregiver.

(5) The individual resides in a nursing facility at the time

the individual applies for the Ohio home care program. 57479

(6) At the time the individual applies for the Ohio home care 57480
program, the individual participates in the money follows the 57481
person demonstration project authorized by section 6071 of the 57482
"Deficit Reduction Act of 2005," Pub. L. No. 109-171, as amended, 57483
and either resides in a residential treatment facility or 57484
inpatient hospital setting. 57485

(C) An individual determined to be eligible for the home 57486
first component of the Ohio home care program shall be enrolled in 57487
the Ohio home care program in accordance with rules adopted under 57488
section 5111.85 of the Revised Code. 57489

Sec. 5111.874. (A) As used in sections 5111.874 to 5111.8710 57490
of the Revised Code: 57491

"Home and community-based services" has the same meaning as 57492
in section 5123.01 of the Revised Code. 57493

"ICF/MR services" means intermediate care facility for the 57494
mentally retarded services covered by the medicaid program that an 57495
intermediate care facility for the mentally retarded provides to a 57496
resident of the facility who is a medicaid recipient eligible for 57497
medicaid-covered intermediate care facility for the mentally 57498
retarded services. 57499

"Intermediate care facility for the mentally retarded" means 57500
an intermediate care facility for the mentally retarded that is 57501
certified as in compliance with applicable standards for the 57502
medicaid program by the director of health in accordance with 57503
Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 57504
U.S.C. 1396, as amended, and licensed as a residential facility 57505
under section 5123.19 of the Revised Code. 57506

"Residential facility" has the same meaning as in section 57507
5123.19 of the Revised Code. 57508

(B) For the purpose of increasing the number of slots 57509
available for home and community-based services and subject to 57510
sections 5111.877 and 5111.878 of the Revised Code, the operator 57511
of an intermediate care facility for the mentally retarded may 57512
convert some or all of the beds in the facility from providing 57513
ICF/MR services to providing home and community-based services if 57514
all of the following requirements are met: 57515

(1) The operator provides the directors of health, ~~job and~~ 57516
~~family services,~~ and developmental disabilities at least ninety 57517
days' notice of the operator's intent to make the conversion. 57518

(2) The operator complies with the requirements of sections 57519
5111.65 to 5111.689 of the Revised Code regarding a voluntary 57520
termination as defined in section 5111.65 of the Revised Code if 57521
those requirements are applicable. 57522

(3) If the operator intends to convert all of the facility's 57523
beds, the operator notifies each of the facility's residents that 57524
the facility is to cease providing ICF/MR services and inform each 57525
resident that the resident may do either of the following: 57526

(a) Continue to receive ICF/MR services by transferring to 57527
another facility that is an intermediate care facility for the 57528
mentally retarded willing and able to accept the resident if the 57529
resident continues to qualify for ICF/MR services; 57530

(b) Begin to receive home and community-based services 57531
instead of ICF/MR services from any provider of home and 57532
community-based services that is willing and able to provide the 57533
services to the resident if the resident is eligible for the 57534
services and a slot for the services is available to the resident. 57535

(4) If the operator intends to convert some but not all of 57536
the facility's beds, the operator notifies each of the facility's 57537
residents that the facility is to convert some of its beds from 57538
providing ICF/MR services to providing home and community-based 57539

services and inform each resident that the resident may do either 57540
of the following: 57541

(a) Continue to receive ICF/MR services from any provider of 57542
ICF/MR services that is willing and able to provide the services 57543
to the resident if the resident continues to qualify for ICF/MR 57544
services; 57545

(b) Begin to receive home and community-based services 57546
instead of ICF/MR services from any provider of home and 57547
community-based services that is willing and able to provide the 57548
services to the resident if the resident is eligible for the 57549
services and a slot for the services is available to the resident. 57550

(5) The operator meets the requirements for providing home 57551
and community-based services, including the following: 57552

(a) Such requirements applicable to a residential facility if 57553
the operator maintains the facility's license as a residential 57554
facility; 57555

(b) Such requirements applicable to a facility that is not 57556
licensed as a residential facility if the operator surrenders the 57557
facility's license as a residential facility ~~license~~ under section 57558
5123.19 of the Revised Code. 57559

(6) The ~~directors~~ director of developmental disabilities ~~and~~ 57560
~~job and family services~~ approve ~~approve~~ the conversion. 57561

(C) A decision by the ~~directors~~ director of developmental 57562
disabilities to approve or refuse to approve a proposed conversion 57563
of beds is final. In making a decision, the ~~directors~~ director 57564
shall consider all of the following: 57565

(1) The fiscal impact on the facility if some but not all of 57566
the beds are converted; 57567

(2) The fiscal impact on the medical assistance program; 57568

(3) The availability of home and community-based services. 57569

(D) The notice provided to the directors under division 57570
(B)(1) of this section shall specify whether some or all of the 57571
facility's beds are to be converted. If some but not all of the 57572
beds are to be converted, the notice shall specify how many of the 57573
facility's beds are to be converted and how many of the beds are 57574
to continue to provide ICF/MR services. The notice to the director 57575
of developmental disabilities shall specify whether the operator 57576
wishes to surrender the facility's license as a residential 57577
facility under section 5123.19 of the Revised Code. 57578

(E)(1) If the ~~directors~~ director of developmental 57579
disabilities ~~and job and family services approve~~ approves a 57580
conversion under division (C) of this section, the director of 57581
health shall do the following: 57582

(a) Terminate the certification of the intermediate care 57583
facility for the mentally retarded if the notice specifies that 57584
all of the facility's beds are to be converted; 57585

(b) Reduce the facility's certified capacity by the number of 57586
beds being converted if the notice specifies that some but not all 57587
of the beds are to be converted. 57588

(2) The director of health shall notify the director of job 57589
and family services of the termination or reduction. On receipt of 57590
the director of health's notice, the director of job and family 57591
services shall do the following: 57592

(a) Terminate the operator's medicaid provider agreement that 57593
authorizes the operator to provide ICF/MR services at the facility 57594
if the facility's certification was terminated; 57595

(b) Amend the operator's medicaid provider agreement to 57596
reflect the facility's reduced certified capacity if the 57597
facility's certified capacity is reduced. 57598

(3) In the case of action taken under division (E)(2)(a) of 57599
this section, the operator is not entitled to notice or a hearing 57600

under Chapter 119. of the Revised Code before the director of job 57601
and family services terminates the medicaid provider agreement. 57602

Sec. 5111.877. The director of job and family services may 57603
seek approval from the United States secretary of health and human 57604
services for not more than a total of ~~two~~ five hundred slots for 57605
home and community-based services for the purposes of sections 57606
5111.874, 5111.875, and 5111.876 of the Revised Code. 57607

Sec. 5111.878. Not more than a total of ~~one~~ five hundred beds 57608
may be converted from providing ICF/MR services to providing home 57609
and community-based services under sections 5111.874 and 5111.875 57610
of the Revised Code. 57611

Sec. 5111.894. (A) Subject to division (C)(2) of section 57612
5111.89 of the Revised Code, the department of aging shall 57613
establish a home first component of the assisted living program 57614
under which eligible individuals may be enrolled in the 57615
medicaid-funded component of the assisted living program in 57616
accordance with this section. An individual is eligible for the 57617
assisted living program's home first component if both of the 57618
following apply: 57619

(1) The individual has been determined to be eligible for the 57620
medicaid-funded component of the assisted living program. 57621

(2) At least one of the following applies: 57622

(a) The individual has been admitted to a nursing facility. 57623

(b) A physician has determined and documented in writing that 57624
the individual has a medical condition that, unless the individual 57625
is enrolled in home and community-based services such as the 57626
assisted living program, will require the individual to be 57627
admitted to a nursing facility within thirty days of the 57628
physician's determination. 57629

(c) The individual has been hospitalized and a physician has 57630
determined and documented in writing that, unless the individual 57631
is enrolled in home and community-based services such as the 57632
assisted living program, the individual is to be transported 57633
directly from the hospital to a nursing facility and admitted. 57634

(d) Both of the following apply: 57635

(i) The individual is the subject of a report made under 57636
section 5101.61 of the Revised Code regarding abuse, neglect, or 57637
exploitation or such a report referred to a county department of 57638
job and family services under section 5126.31 of the Revised Code 57639
or has made a request to a county department for protective 57640
services as defined in section 5101.60 of the Revised Code. 57641

(ii) A county department of job and family services and an 57642
area agency on aging have jointly documented in writing that, 57643
unless the individual is enrolled in home and community-based 57644
services such as the assisted living program, the individual 57645
should be admitted to a nursing facility. 57646

~~(e) The individual resided in a residential care facility for 57647
at least six months immediately before applying for the 57648
medicaid funded component of the assisted living program and is at 57649
risk of imminent admission to a nursing facility because the costs 57650
of residing in the residential care facility have depleted the 57651
individual's resources such that the individual is unable to 57652
continue to afford the cost of residing in the residential care 57653
facility. 57654~~

(B) Each month, each area agency on aging shall identify 57655
individuals residing in the area that the area agency on aging 57656
serves who are eligible for the home first component of the 57657
assisted living program. When an area agency on aging identifies 57658
such an individual and determines that there is a vacancy in a 57659
residential care facility participating in the medicaid-funded 57660

component of the assisted living program that is acceptable to the 57661
individual, the agency shall notify the long-term care 57662
consultation program administrator serving the area in which the 57663
individual resides. The administrator shall determine whether the 57664
assisted living program is appropriate for the individual and 57665
whether the individual would rather participate in the assisted 57666
living program than continue or begin to reside in a nursing 57667
facility. If the administrator determines that the assisted living 57668
program is appropriate for the individual and the individual would 57669
rather participate in the assisted living program than continue or 57670
begin to reside in a nursing facility, the administrator shall so 57671
notify the department of aging. On receipt of the notice from the 57672
administrator, the department shall approve the individual's 57673
enrollment in the medicaid-funded component of the assisted living 57674
program regardless of the unified waiting list established under 57675
section 173.404 of the Revised Code, unless the enrollment would 57676
cause the component to exceed any limit on the number of 57677
individuals who may participate in the component as set by the 57678
United States secretary of health and human services in the 57679
assisted living waiver. 57680

Sec. 5111.941. (A) The medicaid revenue and collections 57681
health care/medicaid support and recoveries fund is hereby created 57682
in the state treasury. ~~Except~~ All of the following shall be 57683
credited to the fund: 57684

(1) Except as otherwise provided by statute or as authorized 57685
by the controlling board, the nonfederal share of all 57686
medicaid-related revenues, collections, and recoveries ~~shall be~~ 57687
~~credited to the fund;~~ 57688

(2) Federal reimbursement received for payment adjustments 57689
made pursuant to section 1923 of the "Social Security Act," 101 57690
Stat. 1330-148 (1987), 42 U.S.C. 1396r-4, as amended, under the 57691

medicaid program to state mental health hospitals maintained and 57692
operated by the department of mental health under division (A) of 57693
section 5119.02 of the Revised Code; 57694

(3) Revenues the department of job and family services 57695
receives from another state agency for medicaid services pursuant 57696
to an interagency agreement, other than such revenues required to 57697
be deposited into the health care services administration fund 57698
created under section 5111.94 of the Revised Code; 57699

(4) The first seven hundred fifty thousand dollars the 57700
department receives in a fiscal year for performing eligibility 57701
verification services necessary for compliance with the 57702
independent, certified audit requirement of 42 C.F.R. 455.304. 57703

(B) The department of job and family services shall use money 57704
credited to the ~~medicaid revenue and collections~~ health 57705
care/medicaid support and recoveries fund to pay for medicaid 57706
services and contracts. 57707

Sec. 5111.946. (A) As used in this section, "medicaid managed 57708
care organization" means a managed care organization under 57709
contract with the department of job and family services pursuant 57710
to section 5111.17 of the Revised Code. 57711

(B) There is hereby created in the state treasury the health 57712
care compliance fund. All of the following shall be credited to 57713
the fund: 57714

(1) All fines imposed on and collected from medicaid managed 57715
care organizations for failure to meet performance standards or 57716
other requirements specified in provider agreements or rules 57717
adopted by the department; 57718

(2) Money the department receives in a fiscal year for 57719
performing eligibility verification services necessary for 57720
compliance with the independent, certified audit requirement of 42 57721

C.F.R. 455.304, other than the amounts of such money that are to 57722
be credited to the medicaid revenue and collections fund under 57723
section 5111.941 of the Revised Code; 57724

(3) All investment earnings of the fund. 57725

(C) Money credited to the health care compliance fund shall 57726
be used solely for the following purposes: 57727

(1) To reimburse medicaid managed care organizations that 57728
have paid fines for failure to meet performance standards or other 57729
requirements and have come into compliance by meeting requirements 57730
as specified by the department; 57731

(2) To provide financial incentive awards established 57732
pursuant to section 5111.171 of the Revised Code and specified in 57733
contracts between medicaid managed care organizations and the 57734
department. 57735

Sec. 5111.96. (A) As used in this section, "MFP demonstration 57736
project" means a money follows the person demonstration project 57737
that the United States secretary of health and human services is 57738
authorized to award under section 6071 of the Deficit Reduction 57739
Act of 2005 (Pub. L. No. 109-171, as amended). 57740
57741

(B) To the extent funds are available under an MFP 57742
demonstration project awarded to the department of job and family 57743
services, the director of job and family services may operate the 57744
helping Ohioans move, expanding (HOME) choice demonstration 57745
component of the medicaid program to transition medicaid 57746
recipients who qualify for the demonstration component to 57747
community settings. The director may adopt rules in accordance 57748
with Chapter 119. of the Revised Code for the administration and 57749
operation of the demonstration component. 57750

Sec. 5111.97. (A) As used in this section, ~~"nursing:~~ 57751

(1) "Home and community-based services medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code. 57752
57753
57754

(2) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code. 57755
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(B) To the extent funds are available, the director of job and family services may establish the Ohio access success project to help medicaid recipients make the transition from residing in a nursing facility to residing in a community setting. The project may be established as a separate nonmedicaid program or integrated into a new or existing ~~program of medicaid-funded~~ home and community-based services ~~authorized by a medicaid waiver approved by the United States department of health and human services component.~~ The director shall permit any recipient of medicaid-funded nursing facility services to apply for participation in the project, but may limit the number of project participants. 57757
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The director shall ensure that an assessment of an applicant is conducted as soon as practicable to determine whether the applicant is eligible for participation in the project. To the maximum extent possible, the assessment and eligibility determination shall be completed not later than the date that occurs six months after the applicant became a recipient of medicaid-funded nursing facility services. 57769
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(C) To be eligible for benefits under the project, a medicaid recipient must satisfy all of the following requirements: 57776
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(1) The medicaid recipient must be a recipient of medicaid-funded nursing facility services, at the time of applying for the project benefits. 57778
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(2) If the project is established as a nonmedicaid program, the medicaid recipient must be able to remain in the community as 57781
57782

a result of receiving project benefits and the projected cost of 57783
the benefits to the project does not exceed eighty per cent of the 57784
average monthly medicaid cost of a medicaid recipient in a nursing 57785
facility. 57786

(3) If the project is integrated into a ~~medicaid-funded~~ home 57787
and community-based services medicaid waiver ~~program~~ component, 57788
the medicaid recipient must meet the waiver component's enrollment 57789
criteria. 57790

(D) If the director establishes the Ohio access success 57791
project, the benefits provided under the project may include 57792
payment of all of the following: 57793

(1) The first month's rent in a community setting; 57794

(2) Rental deposits; 57795

(3) Utility deposits; 57796

(4) Moving expenses; 57797

(5) Other expenses not covered by the medicaid program that 57798
facilitate a medicaid recipient's move from a nursing facility to 57799
a community setting. 57800

(E) If the project is established as a nonmedicaid program, 57801
no participant may receive more than two thousand dollars' worth 57802
of benefits under the project. 57803

(F) If the department of job and family services enters into 57804
a contract with an entity to provide fiscal management services 57805
regarding the project, the contract may provide for a portion of a 57806
participant's benefits under the project to be paid to the 57807
contracting entity. The contract shall specify the portion to be 57808
paid to the contracting entity. 57809

(G) The director may submit a request to the United States 57810
secretary of health and human services pursuant to section 1915 of 57811
the "Social Security Act," 79 95 Stat. ~~286~~ 809 (~~1965~~ 1981), 42 57812

U.S.C. 1396n, as amended, to create a ~~medicaid~~ home and 57813
community-based services medicaid waiver ~~program~~ component to 57814
serve individuals who meet the criteria for participation in the 57815
Ohio access success project. ~~The~~ 57816

(H) The director may adopt rules under in accordance with 57817
Chapter 119. of the Revised Code for the administration and 57818
operation of the project. If the project is integrated into a home 57819
and community-based services medicaid waiver component, the rules 57820
shall be adopted under section 5111.85 of the Revised Code. 57821

Sec. 5112.31. The department of job and family services shall 57822
do all of the following: 57823

(A) Subject to section 5112.331 of the Revised Code and 57824
divisions (B) and (C) of this section and for the purposes 57825
specified in ~~sections 5112.37 and~~ section 5112.371 of the Revised 57826
Code, assess for each fiscal year each intermediate care facility 57827
for the mentally retarded a franchise permit fee equal to the 57828
franchise permit fee rate multiplied by the product of the 57829
following: 57830

(1) The number of beds certified under Title XIX of the 57831
"Social Security Act" on the first day of May of the calendar year 57832
in which the assessment is determined pursuant to division (A) of 57833
section 5112.33 of the Revised Code; 57834

(2) The number of days in the fiscal year. 57835

(B) If the total amount of the franchise permit fee assessed 57836
under division (A) of this section for a fiscal year exceeds the 57837
indirect guarantee percentage of the actual net patient revenue 57838
for all intermediate care facilities for the mentally retarded for 57839
that fiscal year and seventy-five per cent or more of the total 57840
number of intermediate care facilities for the mentally retarded 57841
receive enhanced medicaid payments or other state payments equal 57842

to seventy-five per cent or more of their total franchise permit 57843
fee assessments, do both of the following: 57844

(1) Recalculate the assessments under division (A) of this 57845
section using a per bed per day rate equal to the indirect 57846
guarantee percentage of actual net patient revenue for all 57847
intermediate care facilities for the mentally retarded for that 57848
fiscal year; 57849

(2) Refund the difference between the amount of the franchise 57850
permit fee assessed for that fiscal year under division (A) of 57851
this section and the amount recalculated under division (B)(1) of 57852
this section as a credit against the assessments imposed under 57853
division (A) of this section for the subsequent fiscal year. 57854

(C) If the United States secretary of health and human 57855
services determines that the franchise permit fee established by 57856
sections 5112.30 to 5112.39 of the Revised Code would be an 57857
impermissible health care-related tax under section 1903(w) of the 57858
"Social Security Act," 105 Stat. 1793 (1991), 42 U.S.C.A- 57859
1396b(w), as amended, take all necessary actions to cease 57860
implementation of those sections in accordance with rules adopted 57861
under section 5112.39 of the Revised Code. 57862

Sec. 5112.33. (A) Not later than the fifteenth day of August 57863
of each year, the department of job and family services shall 57864
determine the annual franchise permit fee for each intermediate 57865
care facility for the mentally retarded in accordance with section 57866
5112.31 of the Revised Code. 57867

(B) Not later than the first day of September of each year, 57868
the department shall mail to each intermediate care facility for 57869
the mentally retarded notice of the amount of the franchise permit 57870
fee the facility has been assessed under section 5112.31 of the 57871
Revised Code. 57872

(C) ~~Each~~ Subject to section 5112.331 of the Revised Code, 57873
each intermediate care facility for the mentally retarded shall 57874
pay its fee under section 5112.31 of the Revised Code to the 57875
department in quarterly installment payments not later than 57876
forty-five days after the last day of each September, December, 57877
March, and June. 57878

Sec. 5112.331. (A) If, during the period beginning on the 57879
first day of May of a calendar year and ending on the first day of 57880
January of the immediately following calendar year, the operator 57881
of an intermediate care facility for the mentally retarded 57882
converts, pursuant to section 5111.874 of the Revised Code, one or 57883
more of the facility's beds to providing home and community-based 57884
services, the department of job and family services shall do the 57885
following: 57886

(1) If the facility's medicaid certification is terminated 57887
because of the conversion, terminate the facility's franchise 57888
permit fee effective on the first day of the quarter immediately 57889
following the quarter in which the department receives the notice 57890
of the conversion from the director of health; 57891

(2) If the facility's certified capacity under medicaid is 57892
reduced because of the conversion, redetermine the facility's 57893
franchise permit fee in accordance with division (B) of this 57894
section for the second half of the fiscal year for which the fee 57895
is assessed. 57896

(B)(1) To redetermine an intermediate care facility for the 57897
mentally retarded's franchise permit fee, the department shall 57898
multiply the franchise permit fee rate by the product of the 57899
following: 57900

(a) The number of the facility's beds that remain certified 57901
under Title XIX of the "Social Security Act" as of the date the 57902
conversion takes effect; 57903

(b) The number of days in the second half of the fiscal year 57904
for which the redetermination is made. 57905

(2) The intermediate care facility for the mentally retarded 57906
shall pay its franchise permit fee as redetermined under division 57907
(B)(1) of this section in installment payments not later than 57908
forty-five days after the last day of March and June of the fiscal 57909
year for which the redetermination is made. 57910

Sec. 5112.341. (A) In addition to assessing a penalty 57911
pursuant to section 5112.34 of the Revised Code, the department of 57912
job and family services may do any of the following if an 57913
intermediate care facility for the mentally retarded fails to pay 57914
the full amount of a franchise permit fee installment when due: 57915

(1) Withhold an amount less than or equal to the installment 57916
and penalty assessed under section 5112.34 of the Revised Code 57917
from a medicaid payment due the facility until the facility pays 57918
the installment and penalty; 57919

(2) Offset an amount less than or equal to the installment 57920
and penalty assessed under section 5112.34 of the Revised Code 57921
from a ~~Medicaid~~ medicaid payment due the ~~nursing~~ facility ~~or~~ 57922
~~hospital~~; 57923

(3) Terminate the facility's medicaid provider agreement. 57924

(B) The department may offset a medicaid payment under 57925
division (A) of this section without providing notice to the 57926
intermediate care facility for the mentally retarded and without 57927
conducting an adjudication under Chapter 119. of the Revised Code. 57928

Sec. 5112.37. There is hereby created in the state treasury 57929
the home and community-based services for the mentally retarded 57930
and developmentally disabled fund. ~~Eighty one and seventy seven~~ 57931
~~hundredths per cent of all~~ All installment payments and penalties 57932
paid by an intermediate care facility for the mentally retarded 57933

under sections 5112.33 and 5112.34 of the Revised Code for state 57934
fiscal year 2012 shall be deposited into the fund. Eighty two and 57935
~~two tenths per cent of all installment payments and penalties paid~~ 57936
~~by an intermediate care facility for the mentally retarded under~~ 57937
~~sections 5112.33 and 5112.34 of the Revised Code for state fiscal~~ 57938
~~year 2013 and thereafter shall be deposited into the fund. The~~ 57939
~~department~~ As soon as possible after the end of each quarter, the 57940
director of job and family services shall distribute certify to 57941
the director of budget and management the amount of money in that 57942
is in the fund in accordance with rules adopted under section 57943
5112.39 of the Revised Code as of the last day of that quarter. 57944
~~The departments of job and family services and developmental~~ 57945
~~disabilities shall use the money for the medicaid program~~ 57946
~~established under Chapter 5111. of the Revised Code and home and~~ 57947
~~community based services to mentally retarded and developmentally~~ 57948
~~disabled persons. On receipt of a certification, the director of~~ 57949
~~budget and management shall transfer the amount so certified from~~ 57950
~~the home and community-based services for the mentally retarded~~ 57951
~~and developmentally disabled fund to the department of~~ 57952
~~developmental disabilities operating and services fund created~~ 57953
~~under section 5112.371 of the Revised Code.~~ 57954

Sec. 5112.371. There is hereby created in the state treasury 57955
the department of developmental disabilities operating and 57956
services fund. ~~All installment payments and penalties paid by an~~ 57957
~~intermediate care facility for the mentally retarded under~~ 57958
~~sections 5112.33 and 5112.34 of the Revised Code that are not~~ 57959
~~deposited into the home and community based services for the~~ 57960
~~mentally retarded and developmentally disabled fund shall be~~ 57961
~~deposited into the department of developmental disabilities~~ 57962
~~operating and services~~ The fund shall consist of the money 57963
transferred to it under section 5112.37 of the Revised Code. The 57964
money in the fund shall be used for the expenses of the programs 57965

that the department of developmental disabilities administers and 57966
the department's administrative expenses. 57967

Sec. 5112.39. The director of job and family services shall 57968
adopt rules in accordance with Chapter 119. of the Revised Code to 57969
do ~~all~~ both of the following: 57970

(A) Prescribe the actions the department will take to cease 57971
implementation of sections 5112.30 to 5112.39 of the Revised Code 57972
if the United States secretary of health and human services 57973
determines that the franchise permit fee imposed under section 57974
5112.31 of the Revised Code is an impermissible health 57975
care-related tax under section 1903(w) of the "Social Security 57976
Act," 49 105 Stat. ~~620~~ 1793 (~~1935~~ 1991), 42 U.S.C.A. 1396b(w), as 57977
amended; 57978

(B) ~~Establish the method of distributing the money in the 57979
home and community based services for the mentally retarded and 57980
developmentally disabled fund created by section 5112.37 of the 57981
Revised Code;~~ 57982

~~(C)~~ Establish any other requirements or procedures the 57983
director considers necessary to implement sections 5112.30 to 57984
5112.39 of the Revised Code. 57985

Sec. 5119.22. (A)~~(1)~~ As used in this section and section 57986
5119.221 of the Revised Code: 57987

~~(a)~~(1) "Accommodations" means housing, daily meal 57988
preparation, laundry, housekeeping, arranging for transportation, 57989
social and recreational activities, maintenance, security, and 57990
other services that do not constitute personal care services or 57991
skilled nursing care. 57992

(2) "ADAMHS board" means a board of alcohol, drug addiction, 57993
and mental health services. 57994

<u>(3) "Adult" means a person who is eighteen years of age or older, other than a person described in division (A)(4) of this section who is between eighteen and twenty-one years of age.</u>	57995
	57996
	57997
<u>(4) "Child" means a person who is under eighteen years of age or a person with a mental disability who is under twenty-one years of age.</u>	57998
	57999
	58000
<u>(5) "Community mental health agency" means a community mental health agency as defined in division (H) of section 5122.01 of the Revised Code.</u>	58001
	58002
	58003
(b) <u>(6) "Community mental health services" means any of the services listed in section 340.09 of the Revised Code.</u>	58004
	58005
(e) <u>(7) "Operator" means the person that is responsible for the administration and management of a residential facility.</u>	58006
	58007
<u>(8) "Personal care services" means services including, but not limited to, the following:</u>	58008
	58009
(i) <u>(a) Assisting residents with activities of daily living;</u>	58010
(ii) <u>(b) Assisting residents with self-administration of medication in accordance with rules adopted under this section;</u>	58011
	58012
(iii) <u>(c) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under this section.</u>	58013
	58014
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	58016
"Personal care services" does not include "skilled nursing care" as defined in section 3721.01 of the Revised Code. A facility need not provide more than one of the services listed in division (A) (1) (e) <u>(8)</u> of this section to be considered to be providing personal care services.	58017
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	58019
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	58021
(d) <u>(9) "Residential facility" means a publicly or privately operated home or facility that provides one of the following:</u>	58022
	58023
(i) Room and board <u>(a) Accommodations, supervision, personal</u>	58024

care services, and community mental health services ~~to~~ for one or 58025
more of the following unrelated persons ~~with mental illness or~~ 58026
~~persons with severe mental disabilities~~ who are referred by or are 58027
receiving community mental health services from a community mental 58028
health agency, hospital, or practitioner; 58029

(i) Adults with mental illness; 58030

(ii) Persons of any age with severe mental disabilities; 58031

(iii) Children with serious emotional disturbances or in need 58032
of mental health services. 58033

~~(ii) Room and board~~ (b) Accommodations, supervision, and 58034
personal care services ~~to~~ for three to sixteen unrelated adults or 58035
for one or two of the following unrelated persons: 58036

(i) Persons of any age with mental illness or persons with 58037
~~severe mental disabilities~~ who are referred by or are receiving 58038
community mental health services from a community mental health 58039
agency, hospital, or practitioner; 58040

~~(iii) Room and board to~~ (ii) Persons of any age with severe 58041
mental disabilities who are referred by or are receiving community 58042
mental health services from a community mental health agency, 58043
hospital, or practitioner; 58044

(iii) Adults who are recipients under the residential state 58045
supplement program. 58046

(c) Accommodations for five or more of the following 58047
unrelated persons: 58048

(i) Adults with mental illness or persons with severe mental 58049
~~disabilities~~ who are referred by or are receiving community mental 58050
health services from a community mental health agency, hospital, 58051
or practitioner; 58052

(ii) Adults with severe mental disabilities who are referred 58053
by or are receiving community mental health services from a 58054

community mental health agency, hospital, or practitioner. 58055

~~The following are not residential facilities (10)~~ 58056

"Residential facility" does not include any of the following: the 58057

~~residence of a relative or guardian of a mentally ill individual,~~ 58058

~~a~~ 58059

(a) A hospital subject to licensure under section 5119.20 of 58060

~~the Revised Code, a;~~ 58061

(b) A residential facility as defined in licensed under 58062

~~section 5123.19 of the Revised Code, a facility providing care for~~ 58063

~~a child in the custody of a public children services agency or a~~ 58064

~~private agency certified under section 5103.03 of the Revised~~ 58065

~~Code, a foster care facility or otherwise regulated by the~~ 58066

department of developmental disabilities; 58067

(c) An institution or association subject to certification 58068

under section 5103.03 of the Revised Code, an adult care facility 58069

~~subject to licensure under sections 5119.70 to 5119.88 of the~~ 58070

~~Revised Code, and a;~~ 58071

(d) A facility operated by a hospice care program licensed 58072

under section 3712.04 of the Revised Code that is used exclusively 58073

for care of hospice patients; 58074

(e) A nursing home, residential care facility, or home for 58075

~~the aging subject to licensure under as defined in section 3721.02~~ 58076

~~of the Revised Code;~~ 58077

(f) An alcohol or drug addiction program as defined in 58078

section 3793.01 of the Revised Code; 58079

(g) A facility licensed to provide methadone treatment under 58080

section 3793.11 of the Revised Code; 58081

(h) Any facility that receives funding for operating costs 58082

from the department of development under any program established 58083

to provide emergency shelter housing or transitional housing for 58084

the homeless; 58085

(i) A terminal care facility for the homeless that has entered into an agreement with a hospice care program under section 3712.07 of the Revised Code; 58086
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(j) A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for the placement and care of veterans. 58089
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(11) "Supervision" means any of the following: 58093

(a) Observing a resident to ensure the resident's health, safety, and welfare while the resident engages in activities of daily living or other activities; 58094
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(b) Reminding a resident to perform or complete an activity, such as reminding a resident to engage in personal hygiene or other self-care activities; 58097
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(c) Assisting a resident in making or keeping an appointment. 58100

(12) "Unrelated" means that a resident is not related to the owner or operator of a residential facility or to the owner's or operator's spouse as a parent, grandparent, child, stepchild, grandchild, brother, sister, niece, nephew, aunt, or uncle, or as the child of an aunt or uncle. 58101
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~~(2)(B)~~ Nothing in division (A)~~(1)(d)(9)~~ of this section shall be construed to permit personal care services to be imposed on a resident who is capable of performing the activity in question without assistance. 58106
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~~(3)(C)~~ Except in the case of a residential facility described in division (A)~~(1)(d)(i)(9)(a)~~ of this section, members of the staff of a residential facility shall not administer medication to the facility's residents, all medication taken by residents of a residential facility shall be self-administered, and no person 58110
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~~shall be admitted to or retained by a residential facility unless~~ 58115
~~the person is capable of taking the person's own medication and~~ 58116
~~biologicals, as determined in writing by the person's personal~~ 58117
~~physician. Members of the staff of a residential facility but may~~ 58118
do any of the following: 58119

~~(a)~~(1) Remind a resident when to take medication and watch to 58120
ensure that the resident follows the directions on the container; 58121

~~(b)~~(2) Assist a resident in the self-administration of 58122
medication by taking the medication from the locked area where it 58123
is stored, in accordance with rules adopted pursuant to this 58124
section, and handing it to the resident. If the resident is 58125
physically unable to open the container, a staff member may open 58126
the container for the resident. 58127

~~(c)~~(3) Assist a physically impaired but mentally alert 58128
resident, such as a resident with arthritis, cerebral palsy, or 58129
Parkinson's disease, in removing oral or topical medication from 58130
containers and in consuming or applying the medication, upon 58131
request by or with the consent of the resident. If a resident is 58132
physically unable to place a dose of medicine to the resident's 58133
mouth without spilling it, a staff member may place the dose in a 58134
container and place the container to the mouth of the resident. 58135

~~(B) Every~~ (D)(1) Except as provided in division (D)(2) of 58136
this section, a person operating or ~~desiring~~ seeking to operate a 58137
residential facility shall apply for licensure of the facility to 58138
the department of mental health ~~and~~. The application shall be 58139
submitted by the operator. When applying for the license, the 58140
applicant shall pay to the department the application fee 58141
specified in rules adopted under division (L) of this section. The 58142
fee is nonrefundable. 58143

The department shall send a copy of the ~~an~~ application to the 58144
ADAMHS board of alcohol, drug addiction, and mental health 58145

~~services whose service district includes servicing the county in 58146
which the person operates or ~~desires~~ seeks to operate a 58147
~~residential~~ the facility. The ADAMHS board shall review ~~such~~ 58148
~~applications and recommend approval or disapproval to the~~ 58149
~~department. Each recommendation shall be consistent with the~~ 58150
~~board's community mental health plan.~~ 58151~~

~~(C) the application and provide to the department any 58152
information about the applicant or the facility that the board 58153
would like the department to consider in reviewing the 58154
application. 58155~~

~~(2) A person may not apply for a license to operate a 58156
residential facility if the person is or has been the owner, 58157
operator, or manager of a residential facility for which a license 58158
to operate was revoked or for which renewal of a license was 58159
refused for any reason other than nonpayment of the license 58160
renewal fee, unless both of the following conditions are met: 58161~~

~~(a) A period of not less than two years has elapsed since the 58162
date the director of mental health issued the order revoking or 58163
refusing to renew the facility's license. 58164~~

~~(b) The director's revocation or refusal to renew the license 58165
was not based on an act or omission at the facility that violated 58166
a resident's right to be free from abuse, neglect, or 58167
exploitation. 58168~~

~~(E)(1) Any person may operate a residential facility 58169
providing accommodations and personal care services for one to 58170
five unrelated persons and licensed as a residential facility that 58171
meets the criteria specified in division (A)(9)(b) of this section 58172
as a permitted use in any residential district or zone, including 58173
any single-family residential district or zone of any political 58174
subdivision. Such facilities may be required to comply with area, 58175
height, yard, and architectural compatibility requirements that 58176~~

are uniformly imposed upon all single-family residences within the district or zone. 58177
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(2) Any person may operate a residential facility providing accommodations and personal care services for six to sixteen persons and licensed as a residential facility that meets the criteria specified in division (A)(9)(b) of this section as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned-unit development districts as defined in section 519.021 of the Revised Code may exclude such facilities from such districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate such facilities in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to: 58179
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(a) Require the architectural design and site layout of the home and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood; 58194
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(b) Require compliance with yard, parking, and sign regulation. 58198
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(3) Divisions (E)(1) and (2) of this section do not affect any right of a political subdivision to permit a person to operate a residential facility licensed under this section in a single-family residential district or zone under conditions established by the political subdivision. 58200
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(4)(a) Notwithstanding divisions (E)(1) and (2) of this section and except as provided in division (E)(4)(b) of this section, a political subdivision that has enacted a zoning 58205
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ordinance or resolution may limit the excessive concentration of licensed residential facilities that meet the criteria specified in division (A)(9)(b) of this section. 58208
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(b) Division (E)(4)(a) of this section does not authorize a political subdivision to prevent or limit the continued existence and operation of residential facilities existing and operating on the effective date of this section and that meet the criteria specified in division (A)(9)(b) of this section. A political subdivision may consider the existence of such facilities for the purpose of limiting the excessive concentration of such facilities that meet the criteria specified in division (A)(9)(b) of this section that are not existing and operating on the effective date of this section. 58211
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(F)(1) The department of mental health shall inspect and license the operation of residential facilities. The department shall consider the past record of the facility and the applicant or licensee in arriving at its licensure decision. The 58221
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The department may issue full, probationary, and interim licenses. A full license shall expire two years after the date of issuance, a probationary license shall expire in a shorter period of time as ~~prescribed by rule~~ specified in rules adopted by the director of mental health pursuant to Chapter 119. of the Revised Code under division (L) of this section, and an interim license shall expire ninety days after the date of issuance. The A license may be renewed in accordance with rules adopted by the director under division (L) of this section. The renewal application shall be submitted by the operator. When applying for renewal of a license, the applicant shall pay to the department the renewal fee specified in rules adopted under division (L) of this section. The fee is nonrefundable. 58225
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(2) The department may issue an order suspending the admission of residents to the facility or refuse to issue or renew 58238
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and may revoke a license if it finds the facility is not in 58240
compliance with rules adopted by the ~~department~~ director pursuant 58241
to division ~~(G)~~(L) of this section or if any facility operated by 58242
the applicant or licensee has ~~had~~ been cited for repeated 58243
violations of statutes or rules during the period of previous 58244
licenses. Proceedings initiated to deny applications for full or 58245
probationary licenses or to revoke such licenses are governed by 58246
Chapter 119. of the Revised Code. 58247

~~(D)~~(G) The department may issue an interim license to operate 58248
a residential facility if both of the following conditions are 58249
met: 58250

(1) The department determines that the closing of or the need 58251
to remove residents from another residential facility has created 58252
an emergency situation requiring immediate removal of residents 58253
and an insufficient number of licensed beds are available. 58254

(2) The residential facility applying for an interim license 58255
meets standards established for interim licenses in rules adopted 58256
by the director under ~~Chapter 119. of the Revised Code~~ division 58257
(L) of this section. 58258

An interim license shall be valid for ninety days and may be 58259
renewed by the director no more than twice. Proceedings initiated 58260
to deny applications for or to revoke interim licenses under this 58261
division are not subject to Chapter 119. of the Revised Code. 58262

~~(E)~~(H)(1) The department of mental health may conduct an 58263
inspection of a residential facility as follows: 58264

~~(1)~~(a) Prior to ~~the~~ issuance of a license ~~to a prospective~~ 58265
~~operator~~ for the facility; 58266

~~(2)~~(b) Prior to ~~the~~ renewal of ~~any operator's~~ the facility's 58267
license; 58268

~~(3)~~(c) To determine whether a the facility has completed a 58269

plan of correction required pursuant to ~~this~~ division (H)(2) of 58270
this section and corrected deficiencies to the satisfaction of the 58271
department and in compliance with this section and rules adopted 58272
pursuant to it; 58273

~~(4)~~(d) Upon complaint by any individual or agency; 58274

~~(5)~~(e) At any time the director considers an inspection to be 58275
necessary in order to determine whether ~~a residential~~ the facility 58276
is in compliance with this section and rules adopted pursuant to 58277
this section. 58278

(2) In conducting inspections the department may conduct an 58279
on-site examination and evaluation of the residential facility, 58280
and its personnel, activities, and services. The department shall 58281
have access to examine and copy all records, accounts, and any 58282
other documents relating to the operation of the residential 58283
facility, including records pertaining to residents, and shall 58284
have access to the facility in order to conduct interviews with 58285
the operator, staff, and residents. Following each inspection and 58286
review, the department shall complete a report listing any 58287
deficiencies, and including, when appropriate, a time table within 58288
which the operator shall correct the deficiencies. The department 58289
may require the operator to submit a plan of correction describing 58290
how the deficiencies will be corrected. 58291

~~(F)~~(I) No person shall do any of the following: 58292

(1) Operate a residential facility unless the facility holds 58293
a valid license; 58294

(2) Violate any of the conditions of licensure after having 58295
been granted a license; 58296

(3) Interfere with a state or local official's inspection or 58297
investigation of a residential facility; 58298

(4) Violate any of the provisions of this section or any 58299

rules adopted pursuant to this section. 58300

~~(G)~~(J) The following may enter a residential facility at any 58301
time: 58302

(1) Employees designated by the director of mental health; 58303

(2) Employees of an ADAMHS board when a resident of the 58304
facility is receiving services from a community mental health 58305
agency under contract with that ADAMHS board or another ADAMHS 58306
board; 58307

(3) Employees of a community mental health agency under any 58308
of the following circumstances: 58309

(a) When the agency has a client residing in the facility; 58310

(b) When the agency is acting as an agent of an ADAMHS board 58311
other than the board with which it is under contract. 58312

The employees specified in division (J) of this section shall 58313
be afforded access to examine and copy all records, accounts, and 58314
any other documents relating to the operation of the residential 58315
facility, including records pertaining to residents. 58316

(K) Employees of the department of mental health may enter, 58317
for the purpose of investigation, any institution, residence, 58318
facility, or other structure which has been reported to the 58319
department as, or that the department has reasonable cause to 58320
believe is, operating as a residential facility without a valid 58321
license. 58322

(L) The director shall adopt and may amend and rescind rules 58323
pursuant to Chapter 119. of the Revised Code, ~~prescribing minimum~~ 58324
governing the licensing and operation of residential facilities. 58325
The rules shall establish all of the following: 58326

(1) ~~Minimum~~ standards for the health, safety, adequacy, and 58327
cultural ~~specificity and sensitivity~~ competency of treatment of 58328
and services for persons in residential facilities; ~~establishing~~ 58329

procedures	58330
<u>(2) Procedures for the issuance, renewal or revocation of the licenses of such residential facilities; establishing the</u>	58331
<u>procedures for the issuance, renewal or revocation of the licenses of such residential facilities; establishing the</u>	58332
<u>(3) Procedures for conducting criminal records checks for prospective operators, staff, and other individuals who, if employed by a residential facility, would have unsupervised access to facility residents;</u>	58333
<u>prospectives operators, staff, and other individuals who, if employed by a residential facility, would have unsupervised access to facility residents;</u>	58334
<u>employed by a residential facility, would have unsupervised access to facility residents;</u>	58335
<u>to facility residents;</u>	58336
<u>(4) The fee to be paid when applying for a new residential facility license or renewing the license;</u>	58337
<u>facility license or renewing the license;</u>	58338
<u>(5) Procedures for the operator of a residential facility to follow when notifying the ADAMHS board serving the county in which the facility is located when the facility is serving residents with mental illness or severe mental disability, including the circumstances under which the operator is required to make such a notification;</u>	58339
<u>follow when notifying the ADAMHS board serving the county in which the facility is located when the facility is serving residents with mental illness or severe mental disability, including the circumstances under which the operator is required to make such a notification;</u>	58340
<u>the facility is located when the facility is serving residents with mental illness or severe mental disability, including the circumstances under which the operator is required to make such a notification;</u>	58341
<u>circumstances under which the operator is required to make such a notification;</u>	58342
<u>notification;</u>	58343
<u>(6) Procedures for the issuance and termination of orders of suspension of admission of residents to a residential facility;</u>	58344
<u>suspension of admission of residents to a residential facility;</u>	58345
<u>(7) Measures to be taken by residential facilities relative to residents' medication;</u>	58346
<u>to residents' medication;</u>	58347
<u>(8) Requirements relating to preparation of special diets;</u>	58348
<u>Requirements relating to preparation of special diets;</u>	58349
<u>(9) The maximum number of residents of who may be served in a residential facility; establishing the</u>	58350
<u>residential facility; establishing the</u>	58351
<u>(10) The rights of residents of residential facilities and procedures to protect such rights; and requiring</u>	58352
<u>procedures to protect such rights; and requiring</u>	58353
<u>(11) Procedures for obtaining an affiliation agreement approved by the board between a residential facility and a community mental health agency. Such affiliation agreement must be consistent with the residential portion of the community mental health plan submitted pursuant to section 340.03 of the Revised Code;</u>	58354
<u>approved by the board between a residential facility and a community mental health agency. Such affiliation agreement must be consistent with the residential portion of the community mental health plan submitted pursuant to section 340.03 of the Revised Code;</u>	58355
<u>community mental health agency. Such affiliation agreement must be consistent with the residential portion of the community mental health plan submitted pursuant to section 340.03 of the Revised Code;</u>	58356
<u>health plan submitted pursuant to section 340.03 of the Revised Code;</u>	58357
<u>Code;</u>	58358
<u>Code;</u>	58359

(12) Standards and procedures under which the director may 58360
waive the requirements of any of the rules adopted. 58361

~~(H) The department may investigate any facility that has been~~ 58362
~~reported to the department or that the department has reasonable~~ 58363
~~cause to believe is operating as a residential facility without a~~ 58364
~~valid license.~~ 58365

~~(I)~~(M)(1) The department may withhold the source of any 58366
complaint reported as a violation of this ~~act~~ section when the 58367
department determines that disclosure could be detrimental to the 58368
department's purposes or could jeopardize the investigation. The 58369
department may disclose the source of any complaint if the 58370
complainant agrees in writing to such disclosure and shall 58371
disclose the source upon order by a court of competent 58372
jurisdiction. 58373

~~(J)~~(2) Any person who makes a complaint under division (M)(1) 58374
of this section, or any person who participates in an 58375
administrative or judicial proceeding resulting from such a 58376
complaint, is immune from civil liability and is not subject to 58377
criminal prosecution, other than for perjury, unless the person 58378
has acted in bad faith or with malicious purpose. 58379

(N)(1) The director of mental health may petition the court 58380
of common pleas of the county in which a residential facility is 58381
located for an order enjoining any person from operating a 58382
residential facility without a license or from operating a 58383
licensed facility when, in the director's judgment, there is a 58384
~~real and~~ present danger to the health or safety of any of the 58385
occupants of the facility. The court shall have jurisdiction to 58386
grant such injunctive relief upon a showing that the respondent 58387
named in the petition is operating a facility without a license or 58388
there is a ~~real and~~ present danger to the health or safety of any 58389
residents of the facility. 58390

~~(K) Whoever violates division (F) of this section or any rule adopted under this section is liable for a civil penalty of one hundred dollars for the first offense; for each subsequent offense, such violator is liable for a civil penalty of five hundred dollars. If the violator does not pay, the attorney general, upon the request of the director of mental health, shall bring a civil action to collect the penalty. Fines collected pursuant to this section shall be deposited into the state treasury to the credit of the mental health sale of goods and services fund.~~

(2) When the court grants injunctive relief in the case of a facility operating without a license, the court shall issue, at a minimum, an order enjoining the facility from admitting new residents to the facility and an order requiring the facility to assist with the safe and orderly relocation of the facility's residents.

(3) If injunctive relief is granted against a facility for operating without a license and the facility continues to operate without a license, the director shall refer the case to the attorney general for further action.

(O) The director may fine a person for violating division (I) of this section. The fine shall be five hundred dollars for a first offense; for each subsequent offense, the fine shall be one thousand dollars. The director's actions in imposing a fine shall be taken in accordance with Chapter 119. of the Revised Code.

Sec. 5119.61. Any provision in this chapter that refers to a board of alcohol, drug addiction, and mental health services also refers to the community mental health board in an alcohol, drug addiction, and mental health service district that has a community mental health board.

The director of mental health with respect to all facilities

and programs established and operated under Chapter 340. of the 58422
Revised Code for mentally ill and emotionally disturbed persons, 58423
shall do all of the following: 58424

(A) Adopt rules pursuant to Chapter 119. of the Revised Code 58425
that may be necessary to carry out the purposes of Chapter 340. 58426
and sections 5119.61 to 5119.63 of the Revised Code. 58427

(1) The rules shall include ~~all of the following:~~ 58428

~~(a) Rules rules governing a community mental health agency's 58429
services under section 340.091 of the Revised Code to an 58430
individual referred to the agency under division ~~(C)~~(D)(2) of 58431
section 5119.69 of the Revised Code:~~ 58432

~~(b) For the purpose of division ~~(A)~~(16) of section 340.03 of 58433
the Revised Code, rules governing the duties of mental health 58434
agencies and boards of alcohol, drug addiction, and mental health 58435
services under section 5119.88 of the Revised Code regarding 58436
referrals of individuals with mental illness or severe mental 58437
disability to adult care facilities and effective arrangements for 58438
ongoing mental health services for the individuals. The rules 58439
shall do at least the following:~~ 58440

~~(i) Provide for agencies and boards to participate fully in 58441
the procedures owners and managers of adult care facilities must 58442
follow under division (A) of section 5119.88 of the Revised Code:~~ 58443

~~(ii) Specify the manner in which boards are accountable for 58444
ensuring that ongoing mental health services are effectively 58445
arranged for individuals with mental illness or severe mental 58446
disability who are referred by the board or mental health agency 58447
under contract with the board to an adult care facility. 58448~~

~~(c) Rules governing a board of alcohol, drug addiction, and 58449
mental health services when making a report to the director of 58450
mental health under section 5119.87 of the Revised Code regarding 58451
the quality of care and services provided by an adult care 58452~~

~~facility to a person with mental illness or a severe mental disability.~~ 58453
58454

(2) Rules may be adopted to govern the method of paying a 58455
community mental health facility, as defined in section 5111.023 58456
of the Revised Code, for providing services listed in division (B) 58457
of that section. Such rules must be consistent with the contract 58458
entered into between the departments of job and family services 58459
and mental health under section 5111.91 of the Revised Code and 58460
include requirements ensuring appropriate service utilization. 58461

(B) Review and evaluate, and, taking into account the 58462
findings and recommendations of the board of alcohol, drug 58463
addiction, and mental health services of the district served by 58464
the program and the requirements and priorities of the state 58465
mental health plan, including the needs of residents of the 58466
district now residing in state mental institutions, and make 58467
recommendations for needed improvements to boards of alcohol, drug 58468
addiction, and mental health services; 58469

(C) Provide consultative services to community mental health 58470
agencies with the knowledge and cooperation of the board of 58471
alcohol, drug addiction, and mental health services; 58472

(D) At the director's discretion, provide to boards of 58473
alcohol, drug addiction, and mental health services state or 58474
federal funds, in addition to those allocated under section 58475
5119.62 of the Revised Code, for special programs or projects the 58476
director considers necessary but for which local funds are not 58477
available; 58478

(E) Establish criteria by which a board of alcohol, drug 58479
addiction, and mental health services reviews and evaluates the 58480
quality, effectiveness, and efficiency of services provided 58481
through its community mental health plan. The criteria shall 58482
include requirements ensuring appropriate service utilization. The 58483

department shall assess a board's evaluation of services and the 58484
compliance of each board with this section, Chapter 340. or 58485
section 5119.62 of the Revised Code, and other state or federal 58486
law and regulations. The department, in cooperation with the 58487
board, periodically shall review and evaluate the quality, 58488
effectiveness, and efficiency of services provided through each 58489
board. The department shall collect information that is necessary 58490
to perform these functions. 58491

(F) To the extent the director determines necessary and after 58492
consulting with boards of alcohol, drug addiction, and mental 58493
health services, develop and operate, or contract for the 58494
operation of, a community mental health information system or 58495
systems. 58496

Boards of alcohol, drug ~~abuse~~ addiction, and mental health 58497
services shall submit information requested by the department in 58498
the form and manner prescribed by the department. Information 58499
collected by the department shall include, but not be limited to, 58500
all of the following: 58501

(1) Information regarding units of services provided in whole 58502
or in part under contract with a board, including diagnosis and 58503
special needs, demographic information, the number of units of 58504
service provided, past treatment, financial status, and service 58505
dates in accordance with rules adopted by the department in 58506
accordance with Chapter 119. of the Revised Code; 58507

(2) Financial information other than price or price-related 58508
data regarding expenditures of boards and community mental health 58509
agencies, including units of service provided, budgeted and actual 58510
expenses by type, and sources of funds. 58511

Boards shall submit the information specified in division 58512
(F)(1) of this section no less frequently than annually for each 58513
client, and each time the client's case is opened or closed. The 58514

department shall not collect any personal information from the 58515
boards except as required or permitted by state or federal law for 58516
purposes related to payment, health care operations, program and 58517
service evaluation, reporting activities, research, system 58518
administration, and oversight. 58519

(G) Review each board's community mental health plan 58520
submitted pursuant to section 340.03 of the Revised Code and 58521
approve or disapprove it in whole or in part. Periodically, in 58522
consultation with representatives of boards and after considering 58523
the recommendations of the medical director, the director shall 58524
issue criteria for determining when a plan is complete, criteria 58525
for plan approval or disapproval, and provisions for conditional 58526
approval. The factors that the director considers may include, but 58527
are not limited to, the following: 58528

(1) The mental health needs of all persons residing within 58529
the board's service district, especially severely mentally 58530
disabled children, adolescents, and adults; 58531

(2) The demonstrated quality, effectiveness, efficiency, and 58532
cultural relevance of the services provided in each service 58533
district, the extent to which any services are duplicative of 58534
other available services, and whether the services meet the needs 58535
identified above; 58536

(3) The adequacy of the board's accounting for the 58537
expenditure of funds. 58538

If the director disapproves all or part of any plan, the 58539
director shall provide the board an opportunity to present its 58540
position. The director shall inform the board of the reasons for 58541
the disapproval and of the criteria that must be met before the 58542
plan may be approved. The director shall give the board a 58543
reasonable time within which to meet the criteria, and shall offer 58544
technical assistance to the board to help it meet the criteria. 58545

If the approval of a plan remains in dispute, the board or 58546
the director may request that the dispute be submitted to a 58547
mutually agreed upon third-party mediator with the cost to be 58548
shared by the board and the department. The mediator shall issue 58549
to the board and the department recommendations for resolution of 58550
the dispute. The director, taking into consideration the 58551
recommendations of the mediator, shall make a final determination 58552
and approve or disapprove the plan, in whole or in part. 58553

Sec. 5119.69. (A) As used in this section and section 58554
5119.691 of the Revised Code: 58555

(1) "Long-term care consultation program" means the program 58556
the department of aging is required to develop under section 58557
173.42 of the Revised Code. 58558

(2) "Long-term care consultation program administrator" or 58559
"administrator" means the department of aging or, if the 58560
department contracts with an area agency on aging or other entity 58561
to administer the long-term care consultation program for a 58562
particular area, that agency or entity. 58563

(3) "Nursing facility" has the same meaning as in section 58564
5111.20 of the Revised Code. 58565

(4) "Residential state supplement administrative agency" 58566
means the department of mental health or, if the department 58567
designates an entity under division (C) of this section for a 58568
particular area, the designated entity. 58569

(5) "Residential state supplement program" means the program 58570
administered pursuant to this section. 58571

(B) The department of mental health shall implement the 58572
residential state supplement program under which the state 58573
supplements the supplemental security income payments received by 58574
aged, blind, or disabled adults under Title XVI of the "Social 58575

Security Act," 49 Stat. 620 (1935), 42 U.S.C.A., as amended. 58576
Residential state supplement payments shall be used for the 58577
provision of accommodations, supervision, and personal care 58578
services to supplemental security income recipients who the 58579
department determines are at risk of needing institutional care. 58580

~~(B)~~(C) In implementing the program, the department may 58581
designate one or more entities to be responsible for providing 58582
administrative services regarding the program. The department may 58583
designate an entity to be a residential state supplement 58584
administrative agency under this division either by entering into 58585
a contract with the entity to serve in that capacity or by 58586
otherwise delegating to the entity the responsibility to serve in 58587
that capacity. 58588

~~(C)~~(D) For an individual to be eligible for residential state 58589
supplement payments, all of the following must be the case: 58590

(1) Except as provided by division ~~(G)~~(H) of this section, 58591
the individual must reside in one of the following: 58592

(a) An adult foster home certified under section 5119.692 of 58593
the Revised Code; 58594

(b) A home or facility, other than a nursing home or nursing 58595
home unit of a home for the aging, licensed by the department of 58596
health under Chapter 3721. of the Revised Code ~~or the department~~ 58597
~~of mental health under sections 5119.70 to 5119.88 of the Revised~~ 58598
Code; 58599

(c) A residential facility as defined in division 58600
~~(A)~~~~(1)~~~~(d)~~~~(ii)~~(9)~~(b)~~ of section 5119.22 of the Revised Code 58601
licensed by the department of mental health; 58602

(d) An apartment or room used to provide community mental 58603
health housing services certified by the department of mental 58604
health under section 5119.611 of the Revised Code and approved by 58605
a board of alcohol, drug addiction, and mental health services 58606

under division (A)(14) of section 340.03 of the Revised Code. 58607

(2) A residential state supplement administrative agency must 58608
have determined that the environment in which the individual will 58609
be living while receiving the payments is appropriate for the 58610
individual's needs. If the individual is eligible for supplemental 58611
security income payments or social security disability insurance 58612
benefits because of a mental disability, the residential state 58613
supplement administrative agency shall refer the individual to a 58614
community mental health agency for ~~the community mental health~~ 58615
~~agency to issue in accordance with an assessment under division~~ 58616
~~(A) of section 340.091 of the Revised Code a recommendation on~~ 58617
~~whether the residential state supplement administrative agency~~ 58618
~~should determine that the environment in which the individual will~~ 58619
~~be living while receiving the payments is appropriate for the~~ 58620
~~individual's needs.~~ 58621

(3) The individual satisfies all eligibility requirements 58622
established by rules adopted under division ~~(D)~~(E) of this 58623
section. 58624

~~(D)~~(E) The directors of mental health and job and family 58625
services shall adopt rules in accordance with section 111.15 of 58626
the Revised Code as necessary to implement the residential state 58627
supplement program. 58628

To the extent permitted by Title XVI of the "Social Security 58629
Act," and any other provision of federal law, the director of job 58630
and family services may adopt rules establishing standards for 58631
adjusting the eligibility requirements concerning the level of 58632
impairment a person must have so that the amount appropriated for 58633
the program by the general assembly is adequate for the number of 58634
eligible individuals. The rules shall not limit the eligibility of 58635
disabled persons solely on a basis classifying disabilities as 58636
physical or mental. The director of job and family services also 58637
may adopt rules that establish eligibility standards for aged, 58638

blind, or disabled individuals who reside in one of the homes or 58639
facilities specified in division ~~(C)~~(D)(1) of this section but 58640
who, because of their income, do not receive supplemental security 58641
income payments. The rules may provide that these individuals may 58642
include individuals who receive other types of benefits, 58643
including, social security disability insurance benefits provided 58644
under Title II of the "Social Security Act," 49 Stat. 620 (1935), 58645
42 U.S.C.A. 401, as amended. Notwithstanding division ~~(A)~~(B) of 58646
this section, such payments may be made if funds are available for 58647
them. 58648

The director of mental health may adopt rules establishing 58649
the method to be used to determine the amount an eligible 58650
individual will receive under the program. The amount the general 58651
assembly appropriates for the program may be a factor included in 58652
the method that director establishes. 58653

~~(E)~~(F) The county department of job and family services of 58654
the county in which an applicant for the residential state 58655
supplement program resides shall determine whether the applicant 58656
meets income and resource requirements for the program. 58657

~~(F)~~(G) The department of mental health shall maintain a 58658
waiting list of any individuals eligible for payments under this 58659
section but not receiving them because moneys appropriated to the 58660
department for the purposes of this section are insufficient to 58661
make payments to all eligible individuals. An individual may apply 58662
to be placed on the waiting list even though the individual does 58663
not reside in one of the homes or facilities specified in division 58664
~~(C)~~(D)(1) of this section at the time of application. The director 58665
of mental health, by rules adopted in accordance with Chapter 119. 58666
of the Revised Code, may specify procedures and requirements for 58667
placing an individual on the waiting list and priorities for the 58668
order in which individuals placed on the waiting list are to begin 58669
to receive residential state supplement payments. The rules 58670

specifying priorities may give priority to individuals placed on 58671
the waiting list on or after July 1, 2006, who receive 58672
supplemental security income benefits under Title XVI of the 58673
"Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C. 1381, as 58674
amended. The rules shall not affect the place on the waiting list 58675
of any person who was on the list on July 1, 2006. The rules 58676
specifying priorities may also set additional priorities based on 58677
living arrangement, such as whether an individual resides in a 58678
facility listed in division ~~(C)~~(D)(1) of this section or has been 58679
admitted to a nursing facility. 58680

~~(G)~~(H) An individual in a licensed or certified living 58681
arrangement receiving state supplementation on November 15, 1990, 58682
under former section 5101.531 of the Revised Code shall not become 58683
ineligible for payments under this section solely by reason of the 58684
individual's living arrangement as long as the individual remains 58685
in the living arrangement in which the individual resided on 58686
November 15, 1990. 58687

~~(H)~~(I) The department of mental health shall notify each 58688
person denied approval for payments under this section of the 58689
person's right to a hearing. On request, the hearing shall be 58690
provided in accordance with Chapter 119. of the Revised Code. 58691

Sec. 5119.691. ~~(A) As used in this section:~~ 58692

~~"Long term care consultation program" means the program the 58693
department of aging is required to develop under section 173.42 of 58694
the Revised Code. 58695~~

~~"Long term care consultation program administrator" or 58696
"administrator" means the department of aging or, if the 58697
department contracts with an area agency on aging or other entity 58698
to administer the long term care consultation program for a 58699
particular area, that agency or entity. 58700~~

~~"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.~~ 58701
58702

~~"Residential state supplement administrative agency" means an entity designated as such by the department of mental health under section 5119.69 of the Revised Code.~~ 58703
58704
58705

~~"Residential state supplement program" means the program administered pursuant to section 5119.69 of the Revised Code.~~ 58706
58707

~~(B)~~ On a periodic schedule determined by the department of 58708
mental health, each residential state supplement administrative 58709
agency shall determine whether individuals who reside in the area 58710
that the agency serves and are on a waiting list for the 58711
residential state supplement program have been admitted to a 58712
nursing facility. If a residential state supplement administrative 58713
agency determines that such an individual has been admitted to a 58714
nursing facility, the agency shall notify the long-term care 58715
consultation program administrator serving the area in which the 58716
individual resides about the determination. The administrator 58717
shall determine whether the residential state supplement program 58718
is appropriate for the individual and whether the individual would 58719
rather participate in the program than continue residing in the 58720
nursing facility. If the administrator determines that the 58721
residential state supplement program is appropriate for the 58722
individual and the individual would rather participate in the 58723
program than continue residing in the nursing facility, the 58724
administrator shall so notify the department of mental health. On 58725
receipt of the notice from the administrator, the department of 58726
mental health shall approve the individual's enrollment in the 58727
residential state supplement program in accordance with the 58728
priorities specified in rules adopted under division ~~(F)~~(G) of 58729
section 5119.69 of the Revised Code. Each quarter, the department 58730
of mental health shall certify to the director of budget and 58731
management the estimated increase in costs of the residential 58732

state supplement program resulting from enrollment of individuals 58733
in the program pursuant to this section. 58734

Sec. 5119.692. As used in this section, "adult foster home" 58735
means a residence, other than a residential facility licensed 58736
under section 5119.22 of the Revised Code, in which accommodations 58737
and personal care services, as defined in section ~~5119.70~~ 5119.22 58738
of the Revised Code, are provided to one or two adults who are 58739
unrelated to the owners of the residence. 58740

The department of mental health shall adopt rules in 58741
accordance with Chapter 119. of the Revised Code establishing 58742
standards for the certification of adult foster homes. The 58743
department or its designee shall certify adult foster homes that 58744
apply for certification and meet the standards established by the 58745
department. 58746

Sec. 5119.99. ~~(A)~~ Whoever violates section 5119.21 of the 58747
Revised Code is guilty of a misdemeanor of the first degree. 58748

~~(B) Whoever violates division (A)(1) of section 5119.86 of~~ 58749
~~the Revised Code shall be fined two thousand dollars for a first~~ 58750
~~offense; for each subsequent offense, such person shall be fined~~ 58751
~~five thousand dollars.~~ 58752

~~(C) Whoever violates division (C) of section 5119.81 or~~ 58753
~~division (A)(2), (3), (4), (5), or (6), (B), (C), (D), (E), or (F)~~ 58754
~~of section 5119.86 of the Revised Code shall be fined five hundred~~ 58755
~~dollars for a first offense; for each subsequent offense, such~~ 58756
~~person shall be fined one thousand dollars.~~ 58757

Sec. 5120.036. (A) The department of rehabilitation and 58758
correction shall provide risk reduction programming and treatment 58759
for inmates whom a court under section 2929.143 of the Revised 58760
Code recommends serve a risk reduction sentence and who meet the 58761

eligibility criteria described in division (B) of this section. 58762

(B) If an offender is sentenced to a term of imprisonment in 58763
a state correctional institution and the sentencing court 58764
recommended that the offender serve a risk reduction sentence, the 58765
department of rehabilitation and correction shall conduct a 58766
validated and objective assessment of the person's needs and risk 58767
of reoffending. If the offender cooperates with the risk 58768
assessment and agrees to participate in any programming or 58769
treatment ordered by the department, the department shall provide 58770
programming and treatment to the offender to address the risks and 58771
needs identified in the assessment. 58772

(C) If the department determines that an offender serving a 58773
term of incarceration for whom the sentencing court recommended a 58774
risk reduction sentence under section 2929.143 of the Revised Code 58775
has successfully completed the assessment and treatment or 58776
programming required by the department under division (B) of this 58777
section, the department shall release the offender to ~~supervised~~ 58778
release post-release control under one or more post-release 58779
control sanctions after the offender has served each mandatory 58780
prison term to which the offender was sentenced, if any, and a 58781
minimum of eighty per cent of the aggregated nonmandatory prison 58782
terms to which the offender was sentenced. The placement under 58783
post-release control sanctions shall be under terms set by the 58784
parole board in accordance with section 2967.28 of the Revised 58785
Code and shall be subject to the provisions of that section and 58786
sections 2929.141 and 2967.15 of the Revised Code regarding 58787
violation of post-release control sanctions. No mandatory prison 58788
term shall be reduced by, or as a result of, an offender's service 58789
of a risk reduction sentence. The department shall notify the 58790
sentencing court that the offender has successfully completed the 58791
terms of the risk reduction sentence at least thirty days prior to 58792
the date upon which the offender is to be released. 58793

(D) As used in this section:	58794
(1) "Mandatory prison term" has the same meaning as in section 2929.01 of the Revised Code.	58795 58796
(2) "Nonmandatory prison term" means a prison term that is not a mandatory prison term.	58797 58798
(3) " <u>Post-release control</u> " and " <u>post-release control sanction</u> " have the same meanings as in section 2967.01 of the Revised Code.	58799 58800 58801
Sec. 5120.105. (A) The department of administrative services <u>Ohio facilities construction commission</u> shall provide for the construction of a halfway house facility in conformity with Chapter 153. of the Revised Code, except that construction services may be provided by the department of rehabilitation and correction.	58802 58803 58804 58805 58806 58807
(B) The director of rehabilitation and correction may enter into an agreement with a halfway house organization for the management of a halfway house facility. The halfway house organization that occupies, will occupy, or is responsible for the management of a halfway house facility shall pay the costs of management of and general building services for the halfway house facility as provided in an agreement between the department of rehabilitation and correction and the halfway house organization.	58808 58809 58810 58811 58812 58813 58814 58815
(C) No state funds, including state bond proceeds, shall be spent on the construction of a halfway house facility under sections 5120.102 to 5120.105 of the Revised Code, unless the general assembly has specifically authorized the spending of money on, or has made an appropriation to the department of rehabilitation and correction for, the construction of the halfway house facility or rental payments relating to the financing of the construction of that facility. An authorization to spend money or	58816 58817 58818 58819 58820 58821 58822 58823

an appropriation for planning a halfway house facility does not 58824
constitute an authorization to spend money on, or an appropriation 58825
for, the construction of that facility. Capital funds for the 58826
construction of halfway house facilities under sections 5120.102 58827
to 5120.105 of the Revised Code shall be paid from the adult 58828
correctional building fund created in division (F) of section 58829
154.24 of the Revised Code. 58830

Sec. 5120.132. (A) There is hereby created in the state 58831
treasury the prisoner programs fund. The director of 58832
rehabilitation and correction shall deposit in the fund all moneys 58833
received by the department from commissions on telephone systems 58834
established for the use of prisoners and services provided to 58835
prisoners in relation to electronic mail, prisoner trust fund 58836
deposits, and the purchase of music, digital music players, and 58837
other electronic devices. The money in the fund shall be used only 58838
to pay for the costs of the following: 58839

(1) The purchase of material, supplies, and equipment used in 58840
any library program, educational program, religious program, 58841
recreational program, or pre-release program operated by the 58842
department for the benefit of prisoners; 58843

(2) The construction, alteration, repair, or reconstruction 58844
of buildings and structures owned by the department for use in any 58845
library program, educational program, religious program, 58846
recreational program, or pre-release program operated by the 58847
department for the benefit of prisoners; 58848

(3) The payment of salary, wages, and other compensation to 58849
employees of the department who are employed in any library 58850
program, educational program, religious program, recreational 58851
program, or pre-release program operated by the department for the 58852
benefit of prisoners; 58853

(4) The compensation to vendors that contract with the 58854

department for the provision of services for the benefit of 58855
prisoners in any library program, educational program, religious 58856
program, recreational program, or pre-release program operated by 58857
the department; 58858

(5) The payment of prisoner release payments in an 58859
appropriate amount as determined pursuant to rule; 58860

(6) The purchase of other goods and the payment of other 58861
services that are determined, in the discretion of the director, 58862
to be goods and services that may provide additional benefit to 58863
prisoners. 58864

(B) The director shall establish rules for the operation of 58865
the prisoner programs fund. 58866

Sec. 5120.66. (A) Within ninety days after November 23, 2005, 58867
but not before January 1, 2006, the department of rehabilitation 58868
and correction shall establish and operate on the internet a 58869
database that contains all of the following: 58870

(1) For each inmate in the custody of the department under a 58871
sentence imposed for a conviction of or plea of guilty to any 58872
offense, all of the following information: 58873

(a) The inmate's name; 58874

(b) For each offense for which the inmate was sentenced to a 58875
prison term or term of imprisonment and is in the department's 58876
custody, the name of the offense, the Revised Code section of 58877
which the offense is a violation, the gender of each victim of the 58878
offense if those facts are known, whether each victim of the 58879
offense was an adult or child if those facts are known, the range 58880
of the possible prison terms or term of imprisonment that could 58881
have been imposed for the offense, the actual prison term or term 58882
of imprisonment imposed for the offense, the county in which the 58883
offense was committed, the date on which the inmate began serving 58884

the prison term or term of imprisonment imposed for the offense, 58885
and either the date on which the inmate will be eligible for 58886
parole relative to the offense if the prison term or term of 58887
imprisonment is an indefinite term or life term or the date on 58888
which the term ends if the prison term is a definite term; 58889

(c) All of the following information that is applicable 58890
regarding the inmate: 58891

(i) If known to the department prior to the conduct of any 58892
hearing for judicial release of the defendant pursuant to section 58893
2929.20 of the Revised Code in relation to any prison term or term 58894
of imprisonment the inmate is serving for any offense or any 58895
hearing for release of the defendant pursuant to section 2967.19 58896
of the Revised Code in relation to any such term, notice of the 58897
fact that the inmate will be having a hearing regarding a possible 58898
grant of judicial release or release, the date of the hearing, and 58899
the right of any person pursuant to division (J) of section 58900
2929.20 or division (H) of section 2967.19 of the Revised Code, 58901
whichever is applicable, to submit to the court a written 58902
statement regarding the possible judicial release or release. The 58903
department also shall post notice of the filing submission to a 58904
sentencing court of any petition recommendation for early release 58905
of the inmate pursuant to section 2967.19 of the Revised Code, as 58906
required by division (E) of that section. 58907

(ii) If the inmate is serving a prison term pursuant to 58908
division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), 58909
or (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised 58910
Code, prior to the conduct of any hearing pursuant to section 58911
2971.05 of the Revised Code to determine whether to modify the 58912
requirement that the inmate serve the entire prison term in a 58913
state correctional facility in accordance with division (C) of 58914
that section, whether to continue, revise, or revoke any existing 58915
modification of that requirement, or whether to terminate the 58916

prison term in accordance with division (D) of that section, 58917
notice of the fact that the inmate will be having a hearing 58918
regarding those determinations and of the date of the hearing; 58919

(iii) At least three weeks before the adult parole authority 58920
recommends a pardon or commutation of sentence for the inmate or 58921
at least three weeks prior to a hearing before the adult parole 58922
authority regarding a grant of parole to the inmate in relation to 58923
any prison term or term of imprisonment the inmate is serving for 58924
any offense, notice of the fact that the inmate might be under 58925
consideration for a pardon or commutation of sentence or will be 58926
having a hearing regarding a possible grant of parole, of the date 58927
of any hearing regarding a possible grant of parole, and of the 58928
right of any person to submit a written statement regarding the 58929
pending action; 58930

(iv) At least three weeks before the inmate is transferred to 58931
transitional control under section 2967.26 of the Revised Code in 58932
relation to any prison term or term of imprisonment the inmate is 58933
serving for any offense, notice of the pendency of the transfer, 58934
of the date of the possible transfer, and of the right of any 58935
person to submit a statement regarding the possible transfer; 58936

(v) Prompt notice of the inmate's escape from any facility in 58937
which the inmate was incarcerated and of the capture of the inmate 58938
after an escape; 58939

(vi) Notice of the inmate's death while in confinement; 58940

(vii) Prior to the release of the inmate from confinement, 58941
notice of the fact that the inmate will be released, of the date 58942
of the release, and, if applicable, of the standard terms and 58943
conditions of the release; 58944

(viii) Notice of the inmate's judicial release pursuant to 58945
section 2929.20 of the Revised Code or release pursuant to section 58946
2967.19 of the Revised Code. 58947

(2) Information as to where a person can send written statements of the types referred to in divisions (A)(1)(c)(i), (iii), and (iv) of this section.

(B)(1) The department shall update the database required under division (A) of this section every twenty-four hours to ensure that the information it contains is accurate and current.

(2) The database required under division (A) of this section is a public record open for inspection under section 149.43 of the Revised Code. The department shall make the database searchable by inmate name and by the county and zip code where the offender intends to reside after release from a state correctional institution if this information is known to the department.

(3) The database required under division (A) of this section may contain information regarding inmates who are listed in the database in addition to the information described in that division.

(4) No information included on the database required under division (A) of this section shall identify or enable the identification of any victim of any offense committed by an inmate.

(C) The failure of the department to comply with the requirements of division (A) or (B) of this section does not give any rights or any grounds for appeal or post-conviction relief to any inmate.

(D) This section, and the related provisions of sections 2929.20, 2967.03, 2967.12, and 2967.26 of the Revised Code enacted in the act in which this section was enacted, shall be known as "Laura's Law."

Sec. 5122.31. (A) All certificates, applications, records, and reports made for the purpose of this chapter and sections

2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised Code, other than court journal entries or court docket entries, and directly or indirectly identifying a patient or former patient or person whose hospitalization has been sought under this chapter, shall be kept confidential and shall not be disclosed by any person except:

(1) If the person identified, or the person's legal guardian, if any, or if the person is a minor, the person's parent or legal guardian, consents, and if the disclosure is in the best interests of the person, as may be determined by the court for judicial records and by the chief clinical officer for medical records;

(2) When disclosure is provided for in this chapter or section 5123.60 of the Revised Code;

(3) That hospitals, boards of alcohol, drug addiction, and mental health services, and community mental health agencies may release necessary medical information to insurers and other third-party payers, including government entities responsible for processing and authorizing payment, to obtain payment for goods and services furnished to the patient;

(4) Pursuant to a court order signed by a judge;

(5) That a patient shall be granted access to the patient's own psychiatric and medical records, unless access specifically is restricted in a patient's treatment plan for clear treatment reasons;

(6) That hospitals and other institutions and facilities within the department of mental health may exchange psychiatric records and other pertinent information with other hospitals, institutions, and facilities of the department, and with community mental health agencies and boards of alcohol, drug addiction, and mental health services with which the department has a current agreement for patient care or services. Records and information

that may be released pursuant to this division shall be limited to 59009
medication history, physical health status and history, financial 59010
status, summary of course of treatment in the hospital, summary of 59011
treatment needs, and a discharge summary, if any. 59012

(7) That hospitals within the department, other institutions 59013
and facilities within the department, hospitals licensed by the 59014
department under section 5119.20 of the Revised Code, and 59015
community mental health agencies may exchange psychiatric records 59016
and other pertinent information with payers and other providers of 59017
treatment and health services if the purpose of the exchange is to 59018
facilitate continuity of care for a patient; 59019

(8) That a patient's family member who is involved in the 59020
provision, planning, and monitoring of services to the patient may 59021
receive medication information, a summary of the patient's 59022
diagnosis and prognosis, and a list of the services and personnel 59023
available to assist the patient and the patient's family, if the 59024
patient's treating physician determines that the disclosure would 59025
be in the best interests of the patient. No such disclosure shall 59026
be made unless the patient is notified first and receives the 59027
information and does not object to the disclosure. 59028

(9) That community mental health agencies may exchange 59029
psychiatric records and certain other information with the board 59030
of alcohol, drug addiction, and mental health services and other 59031
agencies in order to provide services to a person involuntarily 59032
committed to a board. Release of records under this division shall 59033
be limited to medication history, physical health status and 59034
history, financial status, summary of course of treatment, summary 59035
of treatment needs, and discharge summary, if any. 59036

(10) That information may be disclosed to the executor or the 59037
administrator of an estate of a deceased patient when the 59038
information is necessary to administer the estate; 59039

(11) That records in the possession of the Ohio historical society may be released to the closest living relative of a deceased patient upon request of that relative;

(12) That information may be disclosed to staff members of the appropriate board or to staff members designated by the director of mental health for the purpose of evaluating the quality, effectiveness, and efficiency of services and determining if the services meet minimum standards. Information obtained during such evaluations shall not be retained with the name of any patient.

(13) That records pertaining to the patient's diagnosis, course of treatment, treatment needs, and prognosis shall be disclosed and released to the appropriate prosecuting attorney if the patient was committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, or to the attorney designated by the board for proceedings pursuant to involuntary commitment under this chapter.

(14) That the department of mental health may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with the department of rehabilitation and correction to ensure continuity of care for inmates who are receiving mental health services in an institution of the department of rehabilitation and correction and may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with boards of alcohol, drug addiction, and mental health services and community mental health agencies to ensure continuity of care for inmates or offenders who are receiving mental health services in an institution and are scheduled for release within six months. ~~The department shall not disclose those records unless the inmate is notified, receives the information, and does not object to the disclosure.~~ The release of records under this division is limited

to records regarding an inmate's or offender's medication history, 59072
physical health status and history, summary of course of 59073
treatment, summary of treatment needs, and a discharge summary, if 59074
any. 59075

(15) That a community mental health agency that ceases to 59076
operate may transfer to either a community mental health agency 59077
that assumes its caseload or to the board of alcohol, drug 59078
addiction, and mental health services of the service district in 59079
which the patient resided at the time services were most recently 59080
provided any treatment records that have not been transferred 59081
elsewhere at the patient's request. 59082

(B) Before records are disclosed pursuant to divisions 59083
(A)(3), (6), ~~(7)~~, and (9) of this section, the custodian of the 59084
records shall attempt to obtain the patient's consent for the 59085
disclosure. No person shall reveal the contents of a medical 59086
record of a patient except as authorized by law. 59087

(C) The managing officer of a hospital who releases necessary 59088
medical information under division (A)(3) of this section to allow 59089
an insurance carrier or other third party payor to comply with 59090
section 5121.43 of the Revised Code shall neither be subject to 59091
criminal nor civil liability. 59092

Sec. 5123.01. As used in this chapter: 59093

(A) "Chief medical officer" means the licensed physician 59094
appointed by the managing officer of an institution for the 59095
mentally retarded with the approval of the director of 59096
developmental disabilities to provide medical treatment for 59097
residents of the institution. 59098

(B) "Chief program director" means a person with special 59099
training and experience in the diagnosis and management of the 59100
mentally retarded, certified according to division (C) of this 59101

section in at least one of the designated fields, and appointed by 59102
the managing officer of an institution for the mentally retarded 59103
with the approval of the director to provide habilitation and care 59104
for residents of the institution. 59105

(C) "Comprehensive evaluation" means a study, including a 59106
sequence of observations and examinations, of a person leading to 59107
conclusions and recommendations formulated jointly, with 59108
dissenting opinions if any, by a group of persons with special 59109
training and experience in the diagnosis and management of persons 59110
with mental retardation or a developmental disability, which group 59111
shall include individuals who are professionally qualified in the 59112
fields of medicine, psychology, and social work, together with 59113
such other specialists as the individual case may require. 59114

(D) "Education" means the process of formal training and 59115
instruction to facilitate the intellectual and emotional 59116
development of residents. 59117

(E) "Habilitation" means the process by which the staff of 59118
the institution assists the resident in acquiring and maintaining 59119
those life skills that enable the resident to cope more 59120
effectively with the demands of the resident's own person and of 59121
the resident's environment and in raising the level of the 59122
resident's physical, mental, social, and vocational efficiency. 59123
Habilitation includes but is not limited to programs of formal, 59124
structured education and training. 59125

(F) "Health officer" means any public health physician, 59126
public health nurse, or other person authorized or designated by a 59127
city or general health district. 59128

(G) "Home and community-based services" means medicaid-funded 59129
home and community-based services specified in division (B)(1) of 59130
section 5111.87 of the Revised Code provided under the medicaid 59131
waiver components the department of developmental disabilities 59132

administers pursuant to section 5111.871 of the Revised Code. 59133
~~However~~ Except as provided in section 5123.0412 of the Revised 59134
Code, home and community-based services provided under the 59135
medicaid waiver component known as the transitions developmental 59136
disabilities waiver are to be considered to be home and 59137
community-based services for the purposes of this chapter only to 59138
the extent, if any, provided by the contract required by section 59139
5111.871 of the Revised Code regarding the waiver. 59140

(H) "Indigent person" means a person who is unable, without 59141
substantial financial hardship, to provide for the payment of an 59142
attorney and for other necessary expenses of legal representation, 59143
including expert testimony. 59144

(I) "Institution" means a public or private facility, or a 59145
part of a public or private facility, that is licensed by the 59146
appropriate state department and is equipped to provide 59147
residential habilitation, care, and treatment for the mentally 59148
retarded. 59149

(J) "Licensed physician" means a person who holds a valid 59150
certificate issued under Chapter 4731. of the Revised Code 59151
authorizing the person to practice medicine and surgery or 59152
osteopathic medicine and surgery, or a medical officer of the 59153
government of the United States while in the performance of the 59154
officer's official duties. 59155

(K) "Managing officer" means a person who is appointed by the 59156
director of developmental disabilities to be in executive control 59157
of an institution for the mentally retarded under the jurisdiction 59158
of the department. 59159

(L) "Medicaid" has the same meaning as in section 5111.01 of 59160
the Revised Code. 59161

(M) "Medicaid case management services" means case management 59162
services provided to an individual with mental retardation or 59163

other developmental disability that the state medicaid plan 59164
requires. 59165

(N) "Mentally retarded person" means a person having 59166
significantly subaverage general intellectual functioning existing 59167
concurrently with deficiencies in adaptive behavior, manifested 59168
during the developmental period. 59169

(O) "Mentally retarded person subject to institutionalization 59170
by court order" means a person eighteen years of age or older who 59171
is at least moderately mentally retarded and in relation to whom, 59172
because of the person's retardation, either of the following 59173
conditions exist: 59174

(1) The person represents a very substantial risk of physical 59175
impairment or injury to self as manifested by evidence that the 59176
person is unable to provide for and is not providing for the 59177
person's most basic physical needs and that provision for those 59178
needs is not available in the community; 59179

(2) The person needs and is susceptible to significant 59180
habilitation in an institution. 59181

(P) "A person who is at least moderately mentally retarded" 59182
means a person who is found, following a comprehensive evaluation, 59183
to be impaired in adaptive behavior to a moderate degree and to be 59184
functioning at the moderate level of intellectual functioning in 59185
accordance with standard measurements as recorded in the most 59186
current revision of the manual of terminology and classification 59187
in mental retardation published by the American association on 59188
mental retardation. 59189

(Q) As used in this division, "substantial functional 59190
limitation," "developmental delay," and "established risk" have 59191
the meanings established pursuant to section 5123.011 of the 59192
Revised Code. 59193

"Developmental disability" means a severe, chronic disability 59194

that is characterized by all of the following: 59195

(1) It is attributable to a mental or physical impairment or 59196
a combination of mental and physical impairments, other than a 59197
mental or physical impairment solely caused by mental illness as 59198
defined in division (A) of section 5122.01 of the Revised Code. 59199

(2) It is manifested before age twenty-two. 59200

(3) It is likely to continue indefinitely. 59201

(4) It results in one of the following: 59202

(a) In the case of a person under three years of age, at 59203
least one developmental delay or an established risk; 59204

(b) In the case of a person at least three years of age but 59205
under six years of age, at least two developmental delays or an 59206
established risk; 59207

(c) In the case of a person six years of age or older, a 59208
substantial functional limitation in at least three of the 59209
following areas of major life activity, as appropriate for the 59210
person's age: self-care, receptive and expressive language, 59211
learning, mobility, self-direction, capacity for independent 59212
living, and, if the person is at least sixteen years of age, 59213
capacity for economic self-sufficiency. 59214

(5) It causes the person to need a combination and sequence 59215
of special, interdisciplinary, or other type of care, treatment, 59216
or provision of services for an extended period of time that is 59217
individually planned and coordinated for the person. 59218

(R) "Developmentally disabled person" means a person with a 59219
developmental disability. 59220

(S) "State institution" means an institution that is 59221
tax-supported and under the jurisdiction of the department. 59222

(T) "Residence" and "legal residence" have the same meaning 59223
as "legal settlement," which is acquired by residing in Ohio for a 59224

period of one year without receiving general assistance prior to 59225
July 17, 1995, under former Chapter 5113. of the Revised Code, 59226
financial assistance under Chapter 5115. of the Revised Code, or 59227
assistance from a private agency that maintains records of 59228
assistance given. A person having a legal settlement in the state 59229
shall be considered as having legal settlement in the assistance 59230
area in which the person resides. No adult person coming into this 59231
state and having a spouse or minor children residing in another 59232
state shall obtain a legal settlement in this state as long as the 59233
spouse or minor children are receiving public assistance, care, or 59234
support at the expense of the other state or its subdivisions. For 59235
the purpose of determining the legal settlement of a person who is 59236
living in a public or private institution or in a home subject to 59237
licensing by the department of job and family services, the 59238
department of mental health, or the department of developmental 59239
disabilities, the residence of the person shall be considered as 59240
though the person were residing in the county in which the person 59241
was living prior to the person's entrance into the institution or 59242
home. Settlement once acquired shall continue until a person has 59243
been continuously absent from Ohio for a period of one year or has 59244
acquired a legal residence in another state. A woman who marries a 59245
man with legal settlement in any county immediately acquires the 59246
settlement of her husband. The legal settlement of a minor is that 59247
of the parents, surviving parent, sole parent, parent who is 59248
designated the residential parent and legal custodian by a court, 59249
other adult having permanent custody awarded by a court, or 59250
guardian of the person of the minor, provided that: 59251

(1) A minor female who marries shall be considered to have 59252
the legal settlement of her husband and, in the case of death of 59253
her husband or divorce, she shall not thereby lose her legal 59254
settlement obtained by the marriage. 59255

(2) A minor male who marries, establishes a home, and who has 59256

resided in this state for one year without receiving general 59257
assistance prior to July 17, 1995, under former Chapter 5113. of 59258
the Revised Code, financial assistance under Chapter 5115. of the 59259
Revised Code, or assistance from a private agency that maintains 59260
records of assistance given shall be considered to have obtained a 59261
legal settlement in this state. 59262

(3) The legal settlement of a child under eighteen years of 59263
age who is in the care or custody of a public or private child 59264
caring agency shall not change if the legal settlement of the 59265
parent changes until after the child has been in the home of the 59266
parent for a period of one year. 59267

No person, adult or minor, may establish a legal settlement 59268
in this state for the purpose of gaining admission to any state 59269
institution. 59270

(U)(1) "Resident" means, subject to division (R)(2) of this 59271
section, a person who is admitted either voluntarily or 59272
involuntarily to an institution or other facility pursuant to 59273
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 59274
Code subsequent to a finding of not guilty by reason of insanity 59275
or incompetence to stand trial or under this chapter who is under 59276
observation or receiving habilitation and care in an institution. 59277

(2) "Resident" does not include a person admitted to an 59278
institution or other facility under section 2945.39, 2945.40, 59279
2945.401, or 2945.402 of the Revised Code to the extent that the 59280
reference in this chapter to resident, or the context in which the 59281
reference occurs, is in conflict with any provision of sections 59282
2945.37 to 2945.402 of the Revised Code. 59283

(V) "Respondent" means the person whose detention, 59284
commitment, or continued commitment is being sought in any 59285
proceeding under this chapter. 59286

(W) "Working day" and "court day" mean Monday, Tuesday, 59287

Wednesday, Thursday, and Friday, except when such day is a legal holiday. 59288
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(X) "Prosecutor" means the prosecuting attorney, village solicitor, city director of law, or similar chief legal officer who prosecuted a criminal case in which a person was found not guilty by reason of insanity, who would have had the authority to prosecute a criminal case against a person if the person had not been found incompetent to stand trial, or who prosecuted a case in which a person was found guilty. 59290
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(Y) "Court" means the probate division of the court of common pleas. 59297
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(Z) "Supported living" and "residential services" have the same meanings as in section 5126.01 of the Revised Code. 59299
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Sec. 5123.033. The program fee fund is hereby created in the state treasury. All fees collected pursuant to sections 5123.161, 5123.164, and 5123.19, ~~and 5126.25~~ of the Revised Code shall be credited to the fund. Money credited to the fund shall be used solely for the department of developmental disabilities' duties under sections 5123.16 to ~~5123.169~~ 5123.1610, and 5123.19, ~~and 5126.25~~ of the Revised Code and to provide continuing education and professional training to ~~employees of county boards of developmental disabilities for the purpose of section 5126.25 of the Revised Code and other~~ providers of services to individuals with mental retardation or a developmental disability. If the money credited to the fund is inadequate to pay all of the department's costs in performing those duties and providing the continuing education and professional training, the department may use other available funds appropriated to the department to pay the remaining costs of performing those duties and providing the continuing education and professional training. 59301
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~~Sec. 5123.042. (A) The Except as provided in section 5123.197 59318
of the Revised Code, each person or government entity seeking to 59319
develop new or modify existing residential services shall submit 59320
to the department of developmental disabilities a plan for the 59321
development or modification. The department shall approve a plan 59322
that is submitted in accordance with rules adopted under this 59323
section and meets the uniform standards for plans established in 59324
those rules. 59325~~

~~The director of developmental disabilities shall adopt rules 59326
in accordance with Chapter 119. of the Revised Code establishing 59327
the following: 59328~~

~~(1)(A) Procedures for submitting plans under this section; 59329~~

~~(B) Uniform standards under which; 59330~~

~~(a) A person or agency shall submit plans to the county board 59331
of developmental disabilities for the development of residential 59332
services for individuals with mental retardation or a 59333
developmental disability within the county; 59334~~

~~(b) The county board must review the plans and recommend 59335
providers for the services for the plans. 59336~~

~~(2) The eligibility criteria for selecting persons and 59337
agencies to provide residential services, which shall take into 59338
consideration the recommendations of the county board. 59339~~

~~(B) The county board, in accordance with its comprehensive 59340
service plan, shall review all proposals for the development of 59341
residential services that are submitted to it and shall, if the 59342
proposals are acceptable to the county board, recommend providers 59343
for the development of residential services within the county. The 59344
department shall approve proposals for the development of 59345
residential services within counties based upon the availability 59346
of funds and in accordance with rules adopted under division 59347~~

~~(A)(2) of this section.~~ 59348

~~No county board shall recommend providers for the development of residential services if the county board is an applicant to provide services. In cases of possible conflict of interest, the director shall appoint a committee that shall, in accordance with the approved county comprehensive service plan, review and recommend to the director providers for the services.~~ 59349
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~~If a county board fails to establish an approved comprehensive service plan, the director may establish residential services development goals for the county board based on documented need as determined by the department. If a county board fails to develop or implement such a plan in accordance with the rules adopted under this section, the department may, without the involvement of the county board, review and select providers for the development of residential services in the county.~~ 59355
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Sec. 5123.044. The department of developmental disabilities shall determine whether county boards of developmental disabilities ~~are in compliance with~~ violate the rights that individuals with mental retardation or other developmental disabilities have under section 5126.046 of the Revised Code to obtain home and community-based services, nonmedicaid residential services, or nonmedicaid supported living from qualified and willing providers. The department shall provide assistance to an individual with mental retardation or other developmental disability who requests assistance with the individual's ~~right~~ rights under that section 5126.046 ~~of the Revised Code to choose a provider of habilitation, vocational, community employment, residential, or supported living services~~ if the department is notified of a county board's alleged violation of the individual's ~~right to choose such a provider~~ rights under that section. 59363
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Sec. 5123.0412. (A) The department of developmental 59378
disabilities shall charge each county board of developmental 59379
disabilities an annual fee equal to one and one-quarter per cent 59380
of the total value of all medicaid paid claims for home and 59381
community-based services provided during the year to an individual 59382
eligible for services from the county board. However, the 59383
department shall not charge the fee for home and community-based 59384
services provided under the medicaid waiver component known as the 59385
transitions developmental disabilities waiver. No county board 59386
shall pass the cost of a fee charged to the county board under 59387
this section on to another provider of these services. 59388

(B) The fees collected under this section shall be deposited 59389
into the ODDD administration and oversight fund and the ODJFS 59390
administration and oversight fund, both of which are hereby 59391
created in the state treasury. The portion of the fees to be 59392
deposited into the ODDD administration and oversight fund and the 59393
portion of the fees to be deposited into the ODJFS administration 59394
and oversight fund shall be the portion specified in an 59395
interagency agreement entered into under division (C) of this 59396
section. The department of developmental disabilities shall use 59397
the money in the ODDD administration and oversight fund and the 59398
department of job and family services shall use the money in the 59399
ODJFS administration and oversight fund for both of the following 59400
purposes: 59401

(1) Medicaid administrative costs, including administrative 59402
and oversight costs of medicaid case management services and home 59403
and community-based services. The administrative and oversight 59404
costs of medicaid case management services and home and 59405
community-based services shall include costs for staff, systems, 59406
and other resources the departments need and dedicate solely to 59407
the following duties associated with the services: 59408

(a) Eligibility determinations;	59409
(b) Training;	59410
(c) Fiscal management;	59411
(d) Claims processing;	59412
(e) Quality assurance oversight;	59413
(f) Other duties the departments identify.	59414
(2) Providing technical support to county boards' local administrative authority under section 5126.055 of the Revised Code for the services.	59415 59416 59417
(C) The departments of developmental disabilities and job and family services shall enter into an interagency agreement to do both of the following:	59418 59419 59420
(1) Specify which portion of the fees collected under this section is to be deposited into the ODDD administration and oversight fund and which portion is to be deposited into the ODJFS administration and oversight fund;	59421 59422 59423 59424
(2) Provide for the departments to coordinate the staff whose costs are paid for with money in the ODDD administration and oversight fund and the ODJFS administration and oversight fund.	59425 59426 59427
(D) The departments shall submit an annual report to the director of budget and management certifying how the departments spent the money in the ODDD administration and oversight fund and the ODJFS administration and oversight fund for the purposes specified in division (B) of this section.	59428 59429 59430 59431 59432
Sec. 5123.0414. (A) When the director of developmental disabilities, under section 119.07 of the Revised Code, sends a party a notice by registered mail, return receipt requested, that the director intends to take action against the party authorized by section 5123.082 , 5123.166, 5123.168, 5123.19, 5123.45,	59433 59434 59435 59436 59437

5123.51, or 5126.25 of the Revised Code and the notice is returned 59438
to the director with an endorsement indicating that the notice was 59439
refused or unclaimed, the director shall resend the notice by 59440
ordinary mail to the party. 59441

(B) If the original notice was refused, the notice shall be 59442
deemed received as of the date the director resends the notice. 59443

(C) If the original notice was unclaimed, the notice shall be 59444
deemed received as of the date the director resends the notice 59445
unless, not later than thirty days after the date the director 59446
sent the original notice, the resent notice is returned to the 59447
director for failure of delivery. 59448

If the notice concerns taking action under section 5123.51 of 59449
the Revised Code and the resent notice is returned to the director 59450
for failure of delivery not later than thirty days after the date 59451
the director sent the original notice, the director shall cause 59452
the notice to be published in a newspaper of general circulation 59453
in the county of the party's last known residence or business and 59454
shall mail a dated copy of the published notice to the party at 59455
the last known address. The notice shall be deemed received as of 59456
the date of the publication. 59457

If the notice concerns taking action under section ~~5123.082,~~ 59458
5123.166, 5123.168, 5123.19, 5123.45, or 5126.25 of the Revised 59459
Code and the resent notice is returned to the director for failure 59460
of delivery not later than thirty days after the date the director 59461
sent the original notice, the director shall resend the notice to 59462
the party a second time. The notice shall be deemed received as of 59463
the date the director resends the notice the second time. 59464

Sec. 5123.0415. ~~As used in this section, "license" means a 59465
license, certificate, or evidence of registration. 59466~~

Each person and each government entity that applies for or 59467

holds a valid license, certification, or registration issued under 59468
section ~~5123.082~~, 5123.161, 5123.19, 5123.45, or 5126.25, ~~or~~ 59469
~~5126.252~~ of the Revised Code shall notify the director of 59470
developmental disabilities of any change in the ~~person~~ person's or 59471
government entity's address. 59472

Sec. 5123.081. (A) As used in this section: 59473

(1)(a) "Applicant" means a any of the following: 59474

(i) A person who is under final consideration for appointment 59475
to or employment with the department of developmental 59476
disabilities, ~~including, but not limited to, a~~ or a county board 59477
of developmental disabilities; 59478

(ii) A person who is being transferred to the department ~~and~~ 59479
~~an~~ or a county board; 59480

(iii) An employee who is being recalled to or reemployed by 59481
the department or a county board after a layoff; 59482

(iv) A person under final consideration for a direct services 59483
position with a provider or subcontractor. 59484

(b) Neither of the following is an applicant: 59485

(i) A person who is employed by a responsible entity in a 59486
position for which a criminal records check is required by this 59487
section and either is being considered for a different position 59488
with the responsible entity or is returning after a leave of 59489
absence or seasonal break in employment, unless the responsible 59490
entity has reason to believe that the person has committed a 59491
disqualifying offense; 59492

(ii) A person who is to provide only respite care under a 59493
family support services program established under section 5126.11 59494
of the Revised Code if a family member of the individual with 59495
mental retardation or a developmental disability who is to receive 59496
the respite care selects the person. 59497

(2) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code. 59498
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(3) "Direct services position" means an employment position in which the employee has the opportunity to be alone with or exercises supervision or control over one or more individuals with mental retardation or a developmental disability. 59500
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(4) "Disqualifying offense" means any of the following: 59504

(a) One or more violations of section 959.13, 959.131, 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34, 2903.341, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2907.33, 2909.02, 2909.03, 2909.04, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 2913.11, 2913.21, 2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44, 2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 2919.121, 2919.123, 2919.22, 2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.21, 2921.24, 2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12, 2923.122, 2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32, 2923.42, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.09, 2925.13, 2925.14, 2925.22, 2925.23, 2925.24, 2925.36, 2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code; 59505
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(b) One or more violations of section 2905.04 of the Revised Code as it existed prior to July 1, 1996; 59523
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(c) One or more violations of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation occurred prior to that date; 59525
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(d) One violation of section 2925.11 of the Revised Code that is not a minor drug possession offense; 59529
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(e) Two or more violations of section 2925.11 of the Revised Code, regardless of whether any of the violations are a minor drug possession offense; 59531
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(f) One or more violations of felonious sexual penetration under former section 2907.12 of the Revised Code; 59534
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(g) One or more violations of section 2923.01, 2923.02, or 2923.03 of the Revised Code when the underlying offense that is the object of the conspiracy, attempt, or complicity is one of the offenses listed in divisions (A)(4)(a) to (f) of this section; 59536
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(h) One or more felonies contained in the Revised Code that are not listed in divisions (A)(4)(a) to (g) of this section, if the felony bears a direct and substantial relationship to the duties and responsibilities of the position being filled; 59540
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(i) One or more offenses contained in the Revised Code constituting a misdemeanor of the first degree on the first offense and a felony on a subsequent offense, if the offense bears a direct and substantial relationship to the position being filled and the nature of the services being provided by the responsible entity; 59544
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(j) One or more violations of an existing or former municipal ordinance or law of this state, any other state, or the United States, if the offense is substantially equivalent to any of the offenses listed or described in divisions (A)(4)(a) to (i) of this section. 59550
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(5)(a) "Employee" means either of the following: 59555

(i) A person appointed to or employed by the department of developmental disabilities or a county board of developmental disabilities; 59556
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(ii) A person employed in a direct services position by a provider or subcontractor. 59559
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(b) "Employee" does not mean a person who provides only respite care under a family support services program established under section 5126.11 of the Revised Code if a family member of the individual with mental retardation or a developmental disability who receives the respite care selected the person. 59561
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(6) "Minor drug possession offense" has the same meaning as in section 2925.01 of the Revised Code. 59566
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(7) "Provider" means a person that provides specialized services to individuals with mental retardation or a developmental disability and employs one or more persons in direct services positions. 59568
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(8) "Responsible entity" means the following: 59572

(a) The department of developmental disabilities in the case of either of the following: 59573
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(i) A person who is an applicant because the person is under final consideration for appointment to or employment with the department, being transferred to the department, or being recalled to or reemployed by the department after a layoff; 59575
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(ii) A person who is an employee because the person is appointed to or employed by the department. 59579
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(b) A county board of developmental disabilities in the case of either of the following: 59581
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(i) A person who is an applicant because the person is under final consideration for appointment to or employment with the county board, being transferred to the county board, or being recalled to or reemployed by the county board after a layoff; 59583
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(ii) A person who is an employee because the person is appointed to or employed by the county board. 59587
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<u>(c) A provider in the case of either of the following:</u>	59589
<u>(i) A person who is an applicant because the person is under final consideration for a direct services position with the provider;</u>	59590 59591 59592
<u>(ii) A person who is an employee because the person is employed in a direct services position by the provider.</u>	59593 59594
<u>(d) A subcontractor in the case of either of the following:</u>	59595
<u>(i) A person who is an applicant because the person is under final consideration for a direct services position with the subcontractor;</u>	59596 59597 59598
<u>(ii) A person who is an employee because the person is employed in a direct services position by the subcontractor.</u>	59599 59600
<u>(9) "Specialized services" means any program or service designed and operated to serve primarily individuals with mental retardation or a developmental disability, including a program or service provided by an entity licensed or certified by the department of developmental disabilities. If there is a question as to whether a provider or subcontractor is providing specialized services, the provider or subcontractor may request that the director of developmental disabilities make a determination. The director's determination is final.</u>	59601 59602 59603 59604 59605 59606 59607 59608 59609
<u>(10) "Subcontractor" means a person to which both of the following apply:</u>	59610 59611
<u>(a) The person has either of the following:</u>	59612
<u>(i) A subcontract with a provider to provide specialized services included in the contract between the provider and the department of developmental disabilities or a county board of developmental disabilities;</u>	59613 59614 59615 59616
<u>(ii) A subcontract with another subcontractor to provide specialized services included in a subcontract between the other</u>	59617 59618

subcontractor and a provider or other subcontractor. 59619

(b) The person employs one or more persons in direct services positions. 59620
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(B) ~~The director of developmental disabilities~~ A responsible entity shall not employ an applicant or continue to employ an employee if either of the following applies: 59622
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(1) The applicant or employee fails to comply with division (D)(3) of this section. 59625
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(2) Except as provided in rules adopted under this section, the applicant or employee is found by a criminal records check required by this section to have been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense. 59627
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(C) Before employing an applicant in a position for which a criminal records check is required by this section, a responsible entity shall require the applicant to submit a statement with the applicant's signature attesting that the applicant has not been convicted of, pleaded guilty to, or been found eligible for intervention in lieu of conviction for a disqualifying offense. The responsible entity also shall require the applicant to sign an agreement under which the applicant agrees to notify the responsible entity within fourteen calendar days if, while employed by the responsible entity, the applicant is formally charged with, is convicted of, pleads guilty to, or is found eligible for intervention in lieu of conviction for a disqualifying offense. The agreement shall provide that the applicant's failure to provide the notification may result in termination of the applicant's employment. 59632
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(D)(1) As a condition of employing any applicant in a position for which a criminal records check is required by this section, a responsible entity shall request the superintendent of 59647
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the bureau of criminal identification and investigation to conduct 59650
a criminal records check ~~with respect to each applicant, except~~ 59651
~~that the director is not required to request a criminal records~~ 59652
~~check for an employee of the department who is being considered~~ 59653
~~for a different position or is returning after a leave of absence~~ 59654
~~or seasonal break in employment, as long as the director has no~~ 59655
~~reason to believe that the employee has committed any of the~~ 59656
~~offenses listed or described in division (E) of this section.~~ 59657

If the of the applicant. If rules adopted under this section 59658
require an employee to undergo a criminal records check, a 59659
responsible entity shall request the superintendent to conduct a 59660
criminal records check of the employee at times specified in the 59661
rules as a condition of the responsible entity's continuing to 59662
employ the employee in a position for which a criminal records 59663
check is required by this section. If an applicant or employee 59664
does not present proof that the applicant or employee has been a 59665
resident of this state for the five-year period immediately prior 59666
to the date upon which the criminal records check is requested, 59667
the ~~director~~ responsible entity shall request that the 59668
superintendent ~~of the bureau~~ obtain information from the federal 59669
bureau of investigation as a part of the criminal records check 59670
~~for the applicant.~~ If the applicant or employee presents proof 59671
that the applicant or employee has been a resident of this state 59672
for that five-year period, the ~~director~~ responsible entity may 59673
request that the superintendent ~~of the bureau~~ include information 59674
from the federal bureau of investigation in the criminal records 59675
check. For purposes of this division, an applicant or employee may 59676
provide proof of residency in this state by presenting, with a 59677
notarized statement asserting that the applicant or employee has 59678
been a resident of this state for that five-year period, a valid 59679
driver's license, notification of registration as an elector, a 59680
copy of an officially filed federal or state tax form identifying 59681
the applicant's or employee's permanent residence, or any other 59682

document the ~~director~~ responsible entity considers acceptable. 59683

~~(C) The director~~ (2) A responsible entity shall provide do 59684
all of the following: 59685

(a) Provide to each applicant and employee for whom a 59686
criminal records check is required by this section a copy of the 59687
form prescribed pursuant to division (C)(1) of section 109.572 of 59688
the Revised Code, ~~provide to each applicant and~~ a standard 59689
impression sheet to obtain fingerprint impressions prescribed 59690
pursuant to division (C)(2) of section 109.572 of the Revised 59691
Code, ~~obtain;~~ 59692

(b) Obtain the completed form and standard impression sheet 59693
from ~~each~~ the applicant, ~~and forward~~ or employee; 59694

(c) Forward the completed form and standard impression sheet 59695
to the superintendent ~~of the bureau of criminal identification and~~ 59696
~~investigation~~ at the time the criminal records check is requested. 59697

(3) Any applicant or employee who receives pursuant to this 59698
division a copy of the form prescribed pursuant to division (C)(1) 59699
of section 109.572 of the Revised Code and a copy of ~~an~~ the 59700
standard impression sheet prescribed pursuant to division (C)(2) 59701
of that section and who is requested to complete the form and 59702
provide a set of the applicant's or employee's fingerprint 59703
impressions shall complete the form or provide all the information 59704
necessary to complete the form and shall provide the ~~material~~ 59705
standard impression sheet with the impressions of the applicant's 59706
or employee's fingerprints. ~~If an applicant, upon request, fails~~ 59707
~~to provide the information necessary to complete the form or fails~~ 59708
~~to provide impressions of the applicant's fingerprints, the~~ 59709
~~director shall not employ the applicant.~~ 59710

~~(D) The director~~ (4) A responsible entity shall pay to the 59711
bureau of criminal identification and investigation the fee 59712
prescribed pursuant to division (C)(3) of section 109.572 of the 59713

Revised Code for each criminal records check requested and 59714
conducted pursuant to this section. 59715

(E) A responsible entity may request any other state or 59716
federal agency to supply the ~~director~~ responsible entity with a 59717
written report regarding the criminal record of ~~each an~~ applicant 59718
~~or employee. With regard to an applicant who becomes a department~~ 59719
~~employee, if the~~ If an employee holds an occupational or 59720
professional license or other credentials, the ~~director~~ 59721
responsible entity may request that the state or federal agency 59722
that regulates the employee's occupation or profession supply the 59723
~~director~~ responsible entity with a written report of any 59724
information pertaining to the employee's criminal record that the 59725
agency obtains in the course of conducting an investigation or in 59726
the process of renewing the employee's license or other 59727
credentials. The responsible entity may consider the reports when 59728
determining whether to employ the applicant or to continue to 59729
employ the employee. 59730

~~(E) Except as provided in division (K)(2) of this section and~~ 59731
~~in rules adopted by the director in accordance with division (M)~~ 59732
~~of this section, the director shall not employ a person to fill a~~ 59733
~~position with the department who has been convicted of or pleaded~~ 59734
~~guilty to any of the following:~~ 59735

~~(1) A violation of section 2903.01, 2903.02, 2903.03,~~ 59736
~~2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34,~~ 59737
~~2903.341, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04,~~ 59738
~~2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22,~~ 59739
~~2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323,~~ 59740
~~2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24,~~ 59741
~~2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04,~~ 59742
~~2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of~~ 59743
~~section 2905.04 of the Revised Code as it existed prior to July 1,~~ 59744
~~1996, a violation of section 2919.23 of the Revised Code that~~ 59745

~~would have been a violation of section 2905.04 of the Revised Code 59746
as it existed prior to July 1, 1996, had the violation occurred 59747
prior to that date, a violation of section 2925.11 of the Revised 59748
Code that is not a minor drug possession offense, or felonious 59749
sexual penetration in violation of former section 2907.12 of the 59750
Revised Code;~~ 59751

~~(2) A felony contained in the Revised Code that is not listed 59752
in this division, if the felony bears a direct and substantial 59753
relationship to the duties and responsibilities of the position 59754
being filled;~~ 59755

~~(3) Any offense contained in the Revised Code constituting a 59756
misdemeanor of the first degree on the first offense and a felony 59757
on a subsequent offense, if the offense bears a direct and 59758
substantial relationship to the position being filled and the 59759
nature of the services being provided by the department;~~ 59760

~~(4) A violation of an existing or former municipal ordinance 59761
or law of this state, any other state, or the United States, if 59762
the offense is substantially equivalent to any of the offenses 59763
listed or described in division (E)(1), (2), or (3) of this 59764
section.~~ 59765

~~(F) Prior to employing an applicant, the director shall 59766
require the applicant to submit a statement with the applicant's 59767
signature attesting that the applicant has not been convicted of 59768
or pleaded guilty to any of the offenses listed or described in 59769
division (E) of this section. The director also shall require the 59770
applicant to sign an agreement under which the applicant agrees to 59771
notify the director within fourteen calendar days if, while 59772
employed with the department, the applicant is ever formally 59773
charged with, convicted of, or pleads guilty to any of the 59774
offenses listed or described in division (E) of this section. The 59775
agreement shall inform the applicant that failure to report formal 59776
charges, a conviction, or a guilty plea may result in being 59777~~

~~dismissed from employment.~~ As a condition of employing an 59778
applicant in a position for which a criminal records check is 59779
required by this section and that involves transporting 59780
individuals with mental retardation or developmental disabilities 59781
or operating a responsible entity's vehicles for any purpose, the 59782
responsible entity shall obtain the applicant's driving record 59783
from the bureau of motor vehicles. If rules adopted under this 59784
section require a responsible entity to obtain an employee's 59785
driving record, the responsible entity shall obtain the employee's 59786
driving record from the bureau at times specified in the rules as 59787
a condition of continuing to employ the employee. The responsible 59788
entity may consider the applicant's or employee's driving record 59789
when determining whether to employ the applicant or to continue to 59790
employ the employee. 59791

(G) ~~The director shall pay to the bureau of criminal~~ 59792
~~identification and investigation the fee prescribed pursuant to~~ 59793
~~division (C)(3) of section 109.572 of the Revised Code for each~~ 59794
~~criminal records check requested and conducted pursuant to this~~ 59795
~~section.~~ A responsible entity may employ an applicant 59796
conditionally pending receipt of a report regarding the applicant 59797
requested under this section. The responsible entity shall 59798
terminate the applicant's employment if it is determined from a 59799
report that the applicant failed to inform the responsible entity 59800
that the applicant had been convicted of, pleaded guilty to, or 59801
been found eligible for intervention in lieu of conviction for a 59802
disqualifying offense. 59803

(H) A responsible entity may charge an applicant a fee for 59804
costs the responsible entity incurs in obtaining a report 59805
regarding the applicant under this section if the responsible 59806
entity notifies the applicant of the amount of the fee at the time 59807
of the applicant's initial application for employment and that, 59808
unless the fee is paid, the responsible entity will not consider 59809

the applicant for employment. The fee shall not exceed the amount 59810
of the fee, if any, the responsible entity pays for the report. 59811

(I)(1) Any report obtained pursuant to this section is not a 59812
public record for purposes of section 149.43 of the Revised Code 59813
and shall not be made available to any person, other than the 59814
following: 59815

(a) The applicant or employee who is the subject of the 59816
records check or criminal records check report or the applicant's 59817
or employee's representative, the department; 59818

(b) The responsible entity that requested the report or its 59819
representative, a county board of developmental disabilities, and 59820
any; 59821

(c) The department if a county board, provider, or 59822
subcontractor is the responsible entity that requested the report 59823
and the department requests the responsible entity to provide a 59824
copy of the report to the department; 59825

(d) A county board if a provider or subcontractor is the 59826
responsible entity that requested the report and the county board 59827
requests the responsible entity to provide a copy of the report to 59828
the county board; 59829

(e) Any court, hearing officer, or other necessary individual 59830
involved in a case dealing with the any of the following: 59831

(i) The denial of employment to the applicant or the 59832
employee; 59833

(ii) The denial, suspension, or revocation of a certificate 59834
or evidence of registration under section 5123.082 5123.166 or 59835
5123.45 of the Revised Code; 59836

(iii) A civil or criminal action regarding the medicaid 59837
program or a program the department administers. 59838

(2) An individual applicant or employee for whom the director 59839

responsible entity has obtained reports under this section may 59840
submit a written request to the ~~director~~ responsible entity to 59841
have copies of the reports sent to any state agency, entity of 59842
local government, or private entity. The ~~individual applicant or~~ 59843
employee shall specify in the request the agencies or entities to 59844
which the copies are to be sent. On receiving the request, the 59845
~~director~~ responsible entity shall send copies of the reports to 59846
the agencies or entities specified. 59847

~~The director~~ (3) A responsible entity may request that a 59848
state agency, entity of local government, or private entity send 59849
copies to the ~~director~~ responsible entity of any report regarding 59850
a records check or criminal records check that the agency or 59851
entity possesses, if the ~~director~~ responsible entity obtains the 59852
written consent of the individual who is the subject of the 59853
report. 59854

~~(I) The director shall request the registrar of motor 59855
vehicles to supply the director with a certified abstract 59856
regarding the record of convictions for violations of motor 59857
vehicle laws of each applicant who will be required by the 59858
applicant's employment to transport individuals with mental 59859
retardation or a developmental disability or to operate the 59860
department's vehicles for any other purpose. For each abstract 59861
provided under this section, the director shall pay the amount 59862
specified in section 4509.05 of the Revised Code. 59863~~

~~(J) The director~~ (4) A responsible entity shall provide each 59864
applicant and employee with a copy of any report ~~or abstract~~ 59865
obtained about the applicant or employee under this section. 59866

~~(K)(1) The director shall inform each person, at the time of 59867
the person's initial application for employment, that the person 59868
is required to provide a set of impressions of the person's 59869
fingerprints and that a criminal records check is required to be 59870
conducted and satisfactorily completed in accordance with section 59871~~

~~109.572 of the Revised Code if the person comes under final
consideration for employment as a precondition to employment in a
position.~~

~~(2) The director may employ an applicant pending receipt of
reports requested under this section. The director shall terminate
employment of any such applicant if it is determined from the
reports that the applicant failed to inform the director that the
applicant had been convicted of or pleaded guilty to any of the
offenses listed or described in division (E) of this section.~~

~~(L) The director may charge an applicant a fee for costs the
director incurs in obtaining reports, abstracts, or fingerprint
impressions under this section. A fee charged under this division
shall not exceed the amount of the fees the director pays under
divisions (G) and (I) of this section. If a fee is charged under
this division, the director shall notify the applicant of the
amount of the fee at the time of the applicant's initial
application for employment and that, unless the fee is paid, the
director will not consider the applicant for employment.~~

~~(M)(J) The director of developmental disabilities shall adopt
rules in accordance with Chapter 119. of the Revised Code to
implement this section, including rules specifying.~~

(1) The rules may do the following:

(a) Require employees to undergo criminal records checks
under this section;

(b) Require responsible entities to obtain the driving
records of employees under this section;

(c) If the rules require employees to undergo criminal
records checks, require responsible entities to obtain the driving
records of employees, or both, exempt one or more classes of
employees from the requirements.

(2) The rules shall do both of the following: 59902

(a) If the rules require employees to undergo criminal records checks, require responsible entities to obtain the driving records of employees, or both, specify the times at which the criminal records checks are to be conducted and the driving records are to be obtained; 59903
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(b) Specify circumstances under which ~~the director~~ a responsible entity may employ a ~~person who has an applicant or employee who is found by a criminal records check required by this section to have been convicted of or, pleaded guilty to an, or been found eligible for intervention in lieu of conviction for a disqualifying offense listed or described in division (E) of this section~~ but ~~who~~ meets standards in regard to rehabilitation set by the director. 59908
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Sec. 5123.16. (A) As used in sections 5123.16 to ~~5123.169~~ 5123.1610 of the Revised Code: 59916
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(1) "Applicant" means any of the following: 59918

(a) The chief executive officer of a business that applies under section 5123.161 of the Revised Code for a certificate to provide supported living; 59919
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(b) The chief executive officer of a business that seeks renewal of the business's supported living certificate under section 5123.164 of the Revised Code; 59922
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(c) An individual who applies under section 5123.161 of the Revised Code for a certificate to provide supported living as an independent provider; 59925
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(d) An independent provider who seeks renewal of the independent provider's supported living certificate under section 5123.164 of the Revised Code. 59928
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(2)(a) "Business" means either of the following: 59931

<u>(i) An association, corporation, nonprofit organization,</u>	59932
<u>partnership, trust, or other group of persons;</u>	59933
<u>(ii) An individual who employs, directly or through contract,</u>	59934
<u>one or more other individuals to provide supported living.</u>	59935
<u>(b) "Business" does not mean an independent provider.</u>	59936
<u>(3) "Criminal records check" has the same meaning as in</u>	59937
<u>section 109.572 of the Revised Code.</u>	59938
<u>(4) "Disqualifying offense" means any of the following:</u>	59939
<u>(a) One or more violations of section 959.13, 959.131,</u>	59940
<u>2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12,</u>	59941
<u>2903.13, 2903.15, 2903.16, 2903.21, 2903.211, 2903.22, 2903.34,</u>	59942
<u>2903.341, 2905.01, 2905.02, 2905.05, 2905.11, 2905.12, 2907.02,</u>	59943
<u>2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09,</u>	59944
<u>2907.21, 2907.22, 2907.23, 2907.24, 2907.25, 2907.31, 2907.32,</u>	59945
<u>2907.321, 2907.322, 2907.323, 2907.33, 2909.02, 2909.03, 2909.04,</u>	59946
<u>2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12,</u>	59947
<u>2911.13, 2913.02, 2913.03, 2913.04, 2913.05, 2913.11, 2913.21,</u>	59948
<u>2913.31, 2913.32, 2913.40, 2913.41, 2913.42, 2913.43, 2913.44,</u>	59949
<u>2913.441, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51,</u>	59950
<u>2917.01, 2917.02, 2917.03, 2917.31, 2919.12, 2919.121, 2919.123,</u>	59951
<u>2919.22, 2919.24, 2919.25, 2921.03, 2921.11, 2921.13, 2921.21,</u>	59952
<u>2921.24, 2921.321, 2921.34, 2921.35, 2921.36, 2921.51, 2923.12,</u>	59953
<u>2923.122, 2923.123, 2923.13, 2923.161, 2923.162, 2923.21, 2923.32,</u>	59954
<u>2923.42, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06,</u>	59955
<u>2925.09, 2925.13, 2925.14, 2925.22, 2925.23, 2925.24, 2925.36,</u>	59956
<u>2925.55, 2925.56, 2927.12, or 3716.11 of the Revised Code;</u>	59957
<u>(b) One or more violations of section 2905.04 of the Revised</u>	59958
<u>Code as it existed prior to July 1, 1996;</u>	59959
<u>(c) One or more violations of section 2919.23 of the Revised</u>	59960
<u>Code that would have been a violation of section 2905.04 of the</u>	59961
<u>Revised Code as it existed prior to July 1, 1996, had the</u>	59962

<u>violation occurred prior to that date;</u>	59963
<u>(d) One violation of section 2925.11 of the Revised Code that is not a minor drug possession offense;</u>	59964
<u>(e) Two or more violations of section 2925.11 of the Revised Code, regardless of whether any of the violations are a minor drug possession offense;</u>	59966
<u>(f) One or more violations of felonious sexual penetration under former section 2907.12 of the Revised Code;</u>	59969
<u>(g) One or more violations of section 2923.01, 2923.02, or 2923.03 of the Revised Code when the underlying offense that is the object of the conspiracy, attempt, or complicity is one of the offenses listed in divisions (A)(4)(a) to (f) of this section;</u>	59971
<u>(h) One or more felonies contained in the Revised Code that are not listed in divisions (A)(4)(a) to (g) of this section, if the felony bears a direct and substantial relationship to the duties and responsibilities of the position being filled;</u>	59975
<u>(i) One or more offenses contained in the Revised Code constituting a misdemeanor of the first degree on the first offense and a felony on a subsequent offense, if the offense bears a direct and substantial relationship to the position being filled and the nature of the services being provided by the responsible entity;</u>	59977
<u>(j) One or more violations of an existing or former municipal ordinance or law of this state, any other state, or the United States, if the offense is substantially equivalent to any of the offenses listed or described in divisions (A)(4)(a) to (i) of this section.</u>	59978
<u>(5) "Independent provider" means a provider who provides supported living on a self-employed basis and does not employ, directly or through contract, another individual to provide the</u>	59980
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<u>supported living.</u>	59993
(6) "Provider" means a person or government entity certified by the director of developmental disabilities to provide supported living.	59994 59995 59996
(2) (7) " <u>Minor drug possession offense</u> " has the same meaning as in section 2925.01 of the Revised Code.	59997 59998
(8) "Related party" means any of the following:	59999
(a) In the case of a provider who is an individual, any of the following:	60000 60001
(i) The spouse of the provider;	60002
(ii) A parent or stepparent of the provider or provider's spouse;	60003 60004
(iii) A child of the provider or provider's spouse;	60005
(iv) A sibling, half sibling, or stepsibling of the provider or provider's spouse;	60006 60007
(v) A grandparent of the provider or provider's spouse;	60008
(vi) A grandchild of the provider or provider's spouse;	60009
(vii) An employee or employer of the provider or provider's spouse.	60010 60011
(b) In the case of a provider that is a person other than an individual, any of the following:	60012 60013
(i) An employee of the person;	60014
(ii) An officer of the provider, including the chief executive officer, president, vice-president, secretary, and treasurer;	60015 60016 60017
(iii) A member of the provider's board of directors or trustees;	60018 60019
(iv) A person owning a financial interest of five per cent or	60020

more in the provider; 60021

(v) A corporation that has a subsidiary relationship with the 60022
provider; 60023

(vi) A person or government entity that has control over the 60024
provider's day-to-day operation; 60025

(vii) A person over which the provider has control of the 60026
day-to-day operation. 60027

(c) In the case of a provider that is a government entity, 60028
any of the following: 60029

(i) An employee of the provider; 60030

(ii) An officer of the provider; 60031

(iii) A member of the provider's governing board; 60032

(iv) A government entity that has control over the provider's 60033
day-to-day operation; 60034

(v) A person or government entity over which the provider has 60035
control of the day-to-day operation. 60036

(B) No person or government entity may provide supported 60037
living without a valid supported living certificate issued by the 60038
director of developmental disabilities. 60039

(C) A county board of developmental disabilities may provide 60040
supported living only to the extent permitted by rules adopted 60041
under section ~~5123.169~~ 5123.1610 of the Revised Code. 60042

Sec. 5123.161. A person or government entity that seeks to 60043
provide supported living shall apply to the director of 60044
developmental disabilities for a supported living certificate. 60045

Except as provided in ~~section~~ sections 5123.166 and 5123.169 60046
of the Revised Code, the director shall issue to the ~~applicant~~ 60047
person or government entity a supported living certificate if the 60048

~~applicant~~ person or government entity follows the application 60049
process established in rules adopted under section ~~5123.169~~ 60050
5123.1610 of the Revised Code, meets the applicable certification 60051
standards established in those rules, and pays the certification 60052
fee established in those rules. 60053

Sec. 5123.162. The director of developmental disabilities may 60054
conduct surveys of persons and government entities that seek a 60055
supported living certificate to determine whether the persons and 60056
government entities meet the certification standards. The director 60057
may also conduct surveys of providers to determine whether the 60058
providers continue to meet the certification standards. The 60059
director shall conduct the surveys in accordance with rules 60060
adopted under section ~~5123.169~~ 5123.1610 of the Revised Code. 60061

The records of surveys conducted under this section are 60062
public records for the purpose of section 149.43 of the Revised 60063
Code and shall be made available on the request of any person or 60064
government entity. 60065

Sec. 5123.163. A supported living certificate is valid for a 60066
period of time established in rules adopted under section ~~5123.169~~ 60067
5123.1610 of the Revised Code, unless any of the following occur 60068
before the end of that period of time: 60069

(A) The director of developmental disabilities issues an 60070
order requiring that action be taken against the certificate 60071
holder under section 5123.166 of the Revised Code. 60072

(B) The director issues an order terminating the certificate 60073
under section 5123.168 of the Revised Code. 60074

(C) The certificate holder voluntarily surrenders the 60075
certificate to the director. 60076

Sec. 5123.164. Except as provided in ~~section~~ sections 60077

5123.166 and 5123.169 of the Revised Code, the director of 60078
developmental disabilities shall renew a supported living 60079
certificate if the certificate holder follows the renewal process 60080
established in rules adopted under section ~~5123.169~~ 5123.1610 of 60081
the Revised Code, continues to meet the applicable certification 60082
standards established in those rules, and pays the renewal fee 60083
established in those rules. 60084

Sec. 5123.166. (A) If good cause exists as specified in 60085
division (B) of this section and determined in accordance with 60086
procedures established in rules adopted under section ~~5123.169~~ 60087
5123.1610 of the Revised Code, the director of developmental 60088
disabilities may issue an adjudication order requiring that one of 60089
the following actions be taken against a person or government 60090
entity seeking or holding a supported living certificate: 60091

(1) Refusal to issue or renew a supported living certificate; 60092

(2) Revocation of a supported living certificate; 60093

(3) Suspension of a supported living certificate holder's 60094
authority to do either or both of the following: 60095

(a) Continue to provide supported living to one or more 60096
individuals from one or more counties who receive supported living 60097
from the certificate holder at the time the director takes the 60098
action; 60099

(b) Begin to provide supported living to one or more 60100
individuals from one or more counties who do not receive supported 60101
living from the certificate holder at the time the director takes 60102
the action. 60103

(B) The following constitute good cause for taking action 60104
under division (A) of this section against a person or government 60105
entity seeking or holding a supported living certificate: 60106

(1) The person or government entity's failure to meet or 60107

continue to meet the applicable certification standards 60108
established in rules adopted under section ~~5123.169~~ 5123.1610 of 60109
the Revised Code; 60110

(2) The person or government entity violates section 5123.165 60111
of the Revised Code; 60112

(3) The person or government entity's failure to satisfy the 60113
requirements of section 5123.081 or 5123.52, ~~5126.28~~, or ~~5126.281~~ 60114
of the Revised Code; 60115

(4) Misfeasance; 60116

(5) Malfeasance; 60117

(6) Nonfeasance; 60118

(7) Confirmed abuse or neglect; 60119

(8) Financial irresponsibility; 60120

(9) Other conduct the director determines is or would be 60121
injurious to individuals who receive or would receive supported 60122
living from the person or government entity. 60123

(C) Except as provided in division (D) of this section, the 60124
director shall issue an adjudication order under division (A) of 60125
this section in accordance with Chapter 119. of the Revised Code. 60126

(D)(1) The director may issue an order requiring that action 60127
specified in division (A)(3) of this section be taken before a 60128
provider is provided notice and an opportunity for a hearing if 60129
all of the following are the case: 60130

(a) The director determines such action is warranted by the 60131
provider's failure to continue to meet the applicable 60132
certification standards; 60133

(b) The director determines that the failure either 60134
represents a pattern of serious noncompliance or creates a 60135
substantial risk to the health or safety of an individual who 60136

receives or would receive supported living from the provider; 60137

(c) If the order will suspend the provider's authority to 60138
continue to provide supported living to an individual who receives 60139
supported living from the provider at the time the director issues 60140
the order, both of the following are the case: 60141

(i) The director makes the individual, or the individual's 60142
guardian, aware of the director's determination under division 60143
(D)(1)(b) of this section and the individual or guardian does not 60144
select another provider. 60145

(ii) A county board of developmental disabilities has filed a 60146
complaint with a probate court under section ~~5123.33~~ 5126.33 of 60147
the Revised Code that includes facts describing the nature of 60148
abuse or neglect that the individual has suffered due to the 60149
provider's actions that are the basis for the director making the 60150
determination under division (D)(1)(b) of this section and the 60151
probate court does not issue an order authorizing the county board 60152
to arrange services for the individual pursuant to an 60153
individualized service plan developed for the individual under 60154
section ~~5123.31~~ 5126.31 of the Revised Code. 60155

(2) If the director issues an order under division (D)(1) of 60156
this section, sections 119.091 to 119.13 of the Revised Code and 60157
all of the following apply: 60158

(a) The director shall send the provider notice of the order 60159
by registered mail, return receipt requested, not later than 60160
twenty-four hours after issuing the order and shall include in the 60161
notice the reasons for the order, the citation to the law or rule 60162
directly involved, and a statement that the provider will be 60163
afforded a hearing if the provider requests it within ten days of 60164
the time of receiving the notice. 60165

(b) If the provider requests a hearing within the required 60166
time and the provider has provided the director the provider's 60167

current address, the director shall immediately set, and notify 60168
the provider of, the date, time, and place for the hearing. 60169

(c) The date of the hearing shall be not later than thirty 60170
days after the director receives the provider's timely request for 60171
the hearing. 60172

(d) The hearing shall be conducted in accordance with section 60173
119.09 of the Revised Code, except for all of the following: 60174

(i) The hearing shall continue uninterrupted until its close, 60175
except for weekends, legal holidays, and other interruptions the 60176
provider and director agree to. 60177

(ii) If the director appoints a referee or examiner to 60178
conduct the hearing, the referee or examiner, not later than ten 60179
days after the date the referee or examiner receives a transcript 60180
of the testimony and evidence presented at the hearing or, if the 60181
referee or examiner does not receive the transcript or no such 60182
transcript is made, the date that the referee or examiner closes 60183
the record of the hearing, shall submit to the director a written 60184
report setting forth the referee or examiner's findings of fact 60185
and conclusions of law and a recommendation of the action the 60186
director should take. 60187

(iii) The provider may, not later than five days after the 60188
date the director, in accordance with section 119.09 of the 60189
Revised Code, sends the provider or the provider's attorney or 60190
other representative of record a copy of the referee or examiner's 60191
report and recommendation, file with the director written 60192
objections to the report and recommendation. 60193

(iv) The director shall approve, modify, or disapprove the 60194
referee or examiner's report and recommendation not earlier than 60195
six days, and not later than fifteen days, after the date the 60196
director, in accordance with section 119.09 of the Revised Code, 60197
sends a copy of the report and recommendation to the provider or 60198

the provider's attorney or other representative of record. 60199

(3) The director may lift an order issued under division 60200
(D)(1) of this section even though a hearing regarding the order 60201
is occurring or pending if the director determines that the 60202
provider has taken action eliminating the good cause for issuing 60203
the order. The hearing shall proceed unless the provider withdraws 60204
the request for the hearing in a written letter to the director. 60205

(4) The director shall lift an order issued under division 60206
(D)(1) of this section if both of the following are the case: 60207

(a) The provider provides the director a plan of compliance 60208
the director determines is acceptable. 60209

(b) The director determines that the provider has implemented 60210
the plan of compliance correctly. 60211

Sec. 5123.169. (A) The director of developmental disabilities 60212
shall not issue a supported living certificate to an applicant or 60213
renew an applicant's supported living certificate if either of the 60214
following applies: 60215

(1) The applicant fails to comply with division (C)(2) of 60216
this section; 60217

(2) Except as provided in rules adopted under section 60218
5123.1610 of the Revised Code, the applicant is found by a 60219
criminal records check required by this section to have been 60220
convicted of, pleaded guilty to, or been found eligible for 60221
intervention in lieu of conviction for a disqualifying offense. 60222

(B) Before issuing a supported living certificate to an 60223
applicant or renewing an applicant's supported living certificate, 60224
the director shall require the applicant to submit a statement 60225
with the applicant's signature attesting that the applicant has 60226
not been convicted of, pleaded guilty to, or been found eligible 60227
for intervention in lieu of conviction for a disqualifying 60228

offense. The director also shall require the applicant to sign an 60229
agreement under which the applicant agrees to notify the director 60230
within fourteen calendar days if, while holding a supported living 60231
certificate, the applicant is formally charged with, is convicted 60232
of, pleads guilty to, or is found eligible for intervention in 60233
lieu of conviction for a disqualifying offense. The agreement 60234
shall provide that the applicant's failure to provide the 60235
notification may result in action being taken by the director 60236
against the applicant under section 5123.166 of the Revised Code. 60237

(C)(1) As a condition of receiving a supported living 60238
certificate or having a supported living certificate renewed, an 60239
applicant shall request the superintendent of the bureau of 60240
criminal identification and investigation to conduct a criminal 60241
records check of the applicant. If an applicant does not present 60242
proof to the director that the applicant has been a resident of 60243
this state for the five-year period immediately prior to the date 60244
that the applicant applies for issuance or renewal of the 60245
supported living certificate, the director shall require the 60246
applicant to request that the superintendent obtain information 60247
from the federal bureau of investigation as a part of the criminal 60248
records check. If the applicant presents proof to the director 60249
that the applicant has been a resident of this state for that 60250
five-year period, the director may require the applicant to 60251
request that the superintendent include information from the 60252
federal bureau of investigation in the criminal records check. For 60253
purposes of this division, an applicant may provide proof of 60254
residency in this state by presenting, with a notarized statement 60255
asserting that the applicant has been a resident of this state for 60256
that five-year period, a valid driver's license, notification of 60257
registration as an elector, a copy of an officially filed federal 60258
or state tax form identifying the applicant's permanent residence, 60259
or any other document the director considers acceptable. 60260

<u>(2) Each applicant shall do all of the following:</u>	60261
<u>(a) Obtain a copy of the form prescribed pursuant to division</u>	60262
<u>(C)(1) of section 109.572 of the Revised Code and a standard</u>	60263
<u>impression sheet prescribed pursuant to division (C)(2) of section</u>	60264
<u>109.572 of the Revised Code;</u>	60265
<u>(b) Complete the form and provide the applicant's fingerprint</u>	60266
<u>impressions on the standard impression sheet;</u>	60267
<u>(c) Forward the completed form and standard impression sheet</u>	60268
<u>to the superintendent at the time the criminal records check is</u>	60269
<u>requested;</u>	60270
<u>(d) Instruct the superintendent to submit the completed</u>	60271
<u>report of the criminal records check directly to the director;</u>	60272
<u>(e) Pay to the bureau of criminal identification and</u>	60273
<u>investigation the fee prescribed pursuant to division (C)(3) of</u>	60274
<u>section 109.572 of the Revised Code for each criminal records</u>	60275
<u>check of the applicant requested and conducted pursuant to this</u>	60276
<u>section.</u>	60277
<u>(D) The director may request any other state or federal</u>	60278
<u>agency to supply the director with a written report regarding the</u>	60279
<u>criminal record of an applicant. The director may consider the</u>	60280
<u>reports when determining whether to issue a supported living</u>	60281
<u>certificate to the applicant or to renew an applicant's supported</u>	60282
<u>living certificate.</u>	60283
<u>(E) An applicant who seeks to be an independent provider or</u>	60284
<u>is an independent provider seeking renewal of the applicant's</u>	60285
<u>supported living certificate shall obtain the applicant's driving</u>	60286
<u>record from the bureau of motor vehicles and provide a copy of the</u>	60287
<u>record to the director if the supported living that the applicant</u>	60288
<u>will provide involves transporting individuals with mental</u>	60289
<u>retardation or developmental disabilities. The director may</u>	60290
<u>consider the applicant's driving record when determining whether</u>	60291

to issue the applicant a supported living certificate or to renew the applicant's supported living certificate. 60292
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(F)(1) A report obtained pursuant to this section is not a public record for purposes of section 149.43 of the Revised Code and shall not be made available to any person, other than the following: 60294
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(a) The applicant who is the subject of the report or the applicant's representative; 60298
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(b) The director or the director's representative; 60300

(c) Any court, hearing officer, or other necessary individual involved in a case dealing with any of the following: 60301
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(i) The denial of a supported living certificate or refusal to renew a supported living certificate; 60303
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(ii) The denial, suspension, or revocation of a certificate under section 5123.45 of the Revised Code; 60305
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(iii) A civil or criminal action regarding the medicaid program. 60307
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(2) An applicant for whom the director has obtained reports under this section may submit a written request to the director to have copies of the reports sent to any person or state or local government entity. The applicant shall specify in the request the person or entities to which the copies are to be sent. On receiving the request, the director shall send copies of the reports to the persons or entities specified. 60309
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(3) The director may request that a person or state or local government entity send copies to the director of any report regarding a records check or criminal records check that the person or entity possesses, if the director obtains the written consent of the individual who is the subject of the report. 60316
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(4) The director shall provide each applicant with a copy of 60321

any report obtained about the applicant under this section. 60322

Sec. ~~5123.169~~ 5123.1610. The director of developmental 60323
disabilities shall adopt rules under Chapter 119. of the Revised 60324
Code establishing all of the following: 60325

(A) The extent to which a county board of developmental 60326
disabilities may provide supported living; 60327

(B) The application process for obtaining a supported living 60328
certificate under section 5123.161 of the Revised Code; 60329

(C) The certification standards a person or government entity 60330
must meet to obtain a supported living certificate to provide 60331
supported living; 60332

(D) The certification fee for a supported living certificate, 60333
which shall be deposited into the program fee fund created under 60334
section 5123.033 of the Revised Code; 60335

(E) The period of time a supported living certificate is 60336
valid; 60337

(F) The process for renewing a supported living certificate 60338
under section 5123.164 of the Revised Code; 60339

(G) The renewal fee for a supported living certificate, which 60340
shall be deposited into the program fee fund created under section 60341
5123.033 of the Revised Code; 60342

(H) Procedures for conducting surveys under section 5123.162 60343
of the Revised Code; 60344

(I) Procedures for determining whether there is good cause to 60345
take action under section 5123.166 of the Revised Code against a 60346
person or government entity seeking or holding a supported living 60347
certificate; 60348

(J) Circumstances under which the director may issue a 60349
supported living certificate to an applicant or renew an 60350

applicant's supported living certificate if the applicant is found 60351
by a criminal records check required by section 5123.169 of the 60352
Revised Code to have been convicted of, pleaded guilty to, or been 60353
found eligible for intervention in lieu of conviction for a 60354
disqualifying offense but meets standards in regard to 60355
rehabilitation set by the director. 60356

Sec. 5123.171. As used in this section, "respite care" means 60357
appropriate, short-term, temporary care provided to a mentally 60358
retarded or developmentally disabled person to sustain the family 60359
structure or to meet planned or emergency needs of the family. 60360

The department of developmental disabilities shall provide 60361
respite care services to persons with mental retardation or a 60362
developmental disability for the purpose of promoting 60363
self-sufficiency and normalization, preventing or reducing 60364
inappropriate institutional care, and furthering the unity of the 60365
family by enabling the family to meet the special needs of a 60366
mentally retarded or developmentally disabled person. 60367

In order to be eligible for respite care services under this 60368
section, the mentally retarded or developmentally disabled person 60369
must be in need of habilitation services as defined in section 60370
5126.01 of the Revised Code. 60371

Respite care may be provided in a residential facility 60372
licensed under section 5123.19 of the Revised Code ~~or~~ (including a 60373
residential facility certified as an intermediate care facility 60374
for the mentally retarded under Title XIX of the "Social Security 60375
Act," 49 79 Stat. ~~620~~ 344 (1935 1965), 42 U.S.C. ~~301~~ 1396, et 60376
seq., as amended, ~~or certified as~~ and a respite care home 60377
certified under section 5126.05 of the Revised Code. 60378

The department shall develop a system for locating vacant 60379
beds that are available for respite care and for making 60380
information on vacant beds available to users of respite care 60381

services. Facilities certified as intermediate care facilities for 60382
the mentally retarded shall report vacant beds to the department 60383
but shall not be required to accept respite care clients. 60384

The director of developmental disabilities shall adopt, and 60385
may amend or rescind, rules in accordance with Chapter 119. of the 60386
Revised Code for both of the following: 60387

(A) Certification by county boards of developmental 60388
disabilities of respite care homes; 60389

(B) Provision of respite care services authorized by this 60390
section. Rules adopted under this division shall establish all of 60391
the following: 60392

(1) A formula for distributing funds appropriated for respite 60393
care services; 60394

(2) Standards for supervision, training and quality control 60395
in the provision of respite care services; 60396

(3) Eligibility criteria for emergency respite care services. 60397

Sec. 5123.19. (A) As used in ~~this section and in sections~~ 60398
~~5123.191, 5123.194, 5123.196, 5123.197, 5123.198, and 5123.19 to~~ 60399
5123.20 of the Revised Code: 60400

~~(1)(a) "Residential facility" means a home or facility in~~ 60401
~~which a mentally retarded or developmentally disabled person~~ 60402
~~resides, except the home of a relative or legal guardian in which~~ 60403
~~a mentally retarded or developmentally disabled person resides, a~~ 60404
~~respite care home certified under section 5126.05 of the Revised~~ 60405
~~Code, a county home or district home operated pursuant to Chapter~~ 60406
~~5155. of the Revised Code, or a dwelling in which the only~~ 60407
~~mentally retarded or developmentally disabled residents are in an~~ 60408
~~independent living arrangement or are being provided supported~~ 60409
~~living.~~ 60410

~~(b) "Intermediate care facility for the mentally retarded"~~ 60411

~~means a residential facility that is considered an intermediate
care facility for the mentally retarded for the purposes of
Chapter 5111. of the Revised Code.~~

~~(2) "Political subdivision" means a municipal corporation,
county, or township.~~

~~(3) "Independent living arrangement" means an arrangement in
which a mentally retarded or developmentally disabled person
resides in an individualized setting chosen by the person or the
person's guardian, which is not dedicated principally to the
provision of residential services for mentally retarded or
developmentally disabled persons, and for which no financial
support is received for rendering such service from any
governmental agency by a provider of residential services.~~

~~(4)(2) "Intermediate care facility for the mentally retarded"
has the same meaning as in section 1905(d) of the "Social Security
Act," 101 Stat. 1330-204 (1987), 42 U.S.C. 1396d(d), as amended.~~

~~(3) "Licensee" means the person or government agency that has
applied for a license to operate a residential facility and to
which the license was issued under this section.~~

~~(4) "Political subdivision" means a municipal corporation,
county, or township.~~

~~(5) "Related party" has the same meaning as in section
5123.16 of the Revised Code except that "provider" as used in the
definition of "related party" means a person or government entity
that held or applied for a license to operate a residential
facility, rather than a person or government entity certified to
provide supported living.~~

~~(6)(a) Except as provided in division (A)(6)(b) of this
section, "residential facility" means a home or facility,
including a facility certified as an intermediate care facility
for the mentally retarded, in which an individual with mental~~

retardation or a developmental disability resides. 60443

(b) "Residential facility" does not mean any of the following: 60444
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(i) The home of a relative or legal guardian in which an individual with mental retardation or a developmental disability resides; 60446
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(ii) A respite care home certified under section 5126.05 of the Revised Code; 60449
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(iii) A county home or district home operated pursuant to Chapter 5155. of the Revised Code; 60451
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(iv) A dwelling in which the only residents with mental retardation or developmental disabilities are in independent living arrangements or are being provided supported living. 60453
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(B) Every person or government agency desiring to operate a residential facility shall apply for licensure of the facility to the director of developmental disabilities unless the residential facility is subject to section 3721.02, ~~5119.73,~~ 5103.03, ~~or 5119.20,~~ or division (A)(9)(b) of section 5119.22 of the Revised Code. ~~Notwithstanding Chapter 3721. of the Revised Code, a nursing home that is certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for licensure of the portion of the home that is certified as an intermediate care facility for the mentally retarded.~~ 60456
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(C) Subject to section 5123.196 of the Revised Code, the director of developmental disabilities shall license the operation of residential facilities. An initial license shall be issued for a period that does not exceed one year, unless the director denies the license under division (D) of this section. A license shall be renewed for a period that does not exceed three years, unless the director refuses to renew the license under division (D) of this 60467
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section. The director, when issuing or renewing a license, shall 60474
specify the period for which the license is being issued or 60475
renewed. A license remains valid for the length of the licensing 60476
period specified by the director, unless the license is 60477
terminated, revoked, or voluntarily surrendered. 60478

(D) If it is determined that an applicant or licensee is not 60479
in compliance with a provision of this chapter that applies to 60480
residential facilities or the rules adopted under such a 60481
provision, the director may deny issuance of a license, refuse to 60482
renew a license, terminate a license, revoke a license, issue an 60483
order for the suspension of admissions to a facility, issue an 60484
order for the placement of a monitor at a facility, issue an order 60485
for the immediate removal of residents, or take any other action 60486
the director considers necessary consistent with the director's 60487
authority under this chapter regarding residential facilities. In 60488
the director's selection and administration of the sanction to be 60489
imposed, all of the following apply: 60490

(1) The director may deny, refuse to renew, or revoke a 60491
license, if the director determines that the applicant or licensee 60492
has demonstrated a pattern of serious noncompliance or that a 60493
violation creates a substantial risk to the health and safety of 60494
residents of a residential facility. 60495

(2) The director may terminate a license if more than twelve 60496
consecutive months have elapsed since the residential facility was 60497
last occupied by a resident or a notice required by division (K) 60498
of this section is not given. 60499

(3) The director may issue an order for the suspension of 60500
admissions to a facility for any violation that may result in 60501
sanctions under division (D)(1) of this section and for any other 60502
violation specified in rules adopted under division (H)(2) of this 60503
section. If the suspension of admissions is imposed for a 60504
violation that may result in sanctions under division (D)(1) of 60505

this section, the director may impose the suspension before 60506
providing an opportunity for an adjudication under Chapter 119. of 60507
the Revised Code. The director shall lift an order for the 60508
suspension of admissions when the director determines that the 60509
violation that formed the basis for the order has been corrected. 60510

(4) The director may order the placement of a monitor at a 60511
residential facility for any violation specified in rules adopted 60512
under division (H)(2) of this section. The director shall lift the 60513
order when the director determines that the violation that formed 60514
the basis for the order has been corrected. 60515

(5) If the director determines that two or more residential 60516
facilities owned or operated by the same person or government 60517
entity are not being operated in compliance with a provision of 60518
this chapter that applies to residential facilities or the rules 60519
adopted under such a provision, and the director's findings are 60520
based on the same or a substantially similar action, practice, 60521
circumstance, or incident that creates a substantial risk to the 60522
health and safety of the residents, the director shall conduct a 60523
survey as soon as practicable at each residential facility owned 60524
or operated by that person or government entity. The director may 60525
take any action authorized by this section with respect to any 60526
facility found to be operating in violation of a provision of this 60527
chapter that applies to residential facilities or the rules 60528
adopted under such a provision. 60529

(6) When the director initiates license revocation 60530
proceedings, no opportunity for submitting a plan of correction 60531
shall be given. The director shall notify the licensee by letter 60532
of the initiation of the proceedings. The letter shall list the 60533
deficiencies of the residential facility and inform the licensee 60534
that no plan of correction will be accepted. The director shall 60535
also send a copy of the letter to the county board of 60536
developmental disabilities. The county board shall send a copy of 60537

the letter to each of the following: 60538

(a) Each resident who receives services from the licensee; 60539

(b) The guardian of each resident who receives services from 60540
the licensee if the resident has a guardian; 60541

(c) The parent or guardian of each resident who receives 60542
services from the licensee if the resident is a minor. 60543

(7) Pursuant to rules which shall be adopted in accordance 60544
with Chapter 119. of the Revised Code, the director may order the 60545
immediate removal of residents from a residential facility 60546
whenever conditions at the facility present an immediate danger of 60547
physical or psychological harm to the residents. 60548

(8) In determining whether a residential facility is being 60549
operated in compliance with a provision of this chapter that 60550
applies to residential facilities or the rules adopted under such 60551
a provision, or whether conditions at a residential facility 60552
present an immediate danger of physical or psychological harm to 60553
the residents, the director may rely on information obtained by a 60554
county board of developmental disabilities or other governmental 60555
agencies. 60556

(9) In proceedings initiated to deny, refuse to renew, or 60557
revoke licenses, the director may deny, refuse to renew, or revoke 60558
a license regardless of whether some or all of the deficiencies 60559
that prompted the proceedings have been corrected at the time of 60560
the hearing. 60561

(E) The director shall establish a program under which public 60562
notification may be made when the director has initiated license 60563
revocation proceedings or has issued an order for the suspension 60564
of admissions, placement of a monitor, or removal of residents. 60565
The director shall adopt rules in accordance with Chapter 119. of 60566
the Revised Code to implement this division. The rules shall 60567
establish the procedures by which the public notification will be 60568

made and specify the circumstances for which the notification must 60569
be made. The rules shall require that public notification be made 60570
if the director has taken action against the facility in the 60571
eighteen-month period immediately preceding the director's latest 60572
action against the facility and the latest action is being taken 60573
for the same or a substantially similar violation of a provision 60574
of this chapter that applies to residential facilities or the 60575
rules adopted under such a provision. The rules shall specify a 60576
method for removing or amending the public notification if the 60577
director's action is found to have been unjustified or the 60578
violation at the residential facility has been corrected. 60579

(F)(1) Except as provided in division (F)(2) of this section, 60580
appeals from proceedings initiated to impose a sanction under 60581
division (D) of this section shall be conducted in accordance with 60582
Chapter 119. of the Revised Code. 60583

(2) Appeals from proceedings initiated to order the 60584
suspension of admissions to a facility shall be conducted in 60585
accordance with Chapter 119. of the Revised Code, unless the order 60586
was issued before providing an opportunity for an adjudication, in 60587
which case all of the following apply: 60588

(a) The licensee may request a hearing not later than ten 60589
days after receiving the notice specified in section 119.07 of the 60590
Revised Code. 60591

(b) If a timely request for a hearing that includes the 60592
licensee's current address is made, the hearing shall commence not 60593
later than thirty days after the department receives the request. 60594

(c) After commencing, the hearing shall continue 60595
uninterrupted, except for Saturdays, Sundays, and legal holidays, 60596
unless other interruptions are agreed to by the licensee and the 60597
director. 60598

(d) If the hearing is conducted by a hearing examiner, the 60599

hearing examiner shall file a report and recommendations not later than ten days after the last of the following:

- (i) The close of the hearing;
- (ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript;
- (iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs.

(e) A copy of the written report and recommendation of the hearing examiner shall be sent, by certified mail, to the licensee and the licensee's attorney, if applicable, not later than five days after the report is filed.

(f) Not later than five days after the hearing examiner files the report and recommendations, the licensee may file objections to the report and recommendations.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the director shall issue an order approving, modifying, or disapproving the report and recommendations.

(h) Notwithstanding the pendency of the hearing, the director shall lift the order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(G) Neither a person or government agency whose application for a license to operate a residential facility is denied nor a related party of the person or government agency may apply for a license to operate a residential facility before the date that is one year after the date of the denial. Neither a licensee whose residential facility license is revoked nor a related party of the licensee may apply for a residential facility license before the date that is five years after the date of the revocation.

(H) In accordance with Chapter 119. of the Revised Code, the 60630
director shall adopt and may amend and rescind rules for licensing 60631
and regulating the operation of residential facilities, ~~including~~ 60632
~~intermediate care facilities for the mentally retarded~~. The rules 60633
for residential facilities that are intermediate care facilities 60634
for the mentally retarded may differ from those for other 60635
residential facilities. The rules shall establish and specify the 60636
following: 60637

(1) Procedures and criteria for issuing and renewing 60638
licenses, including procedures and criteria for determining the 60639
length of the licensing period that the director must specify for 60640
each license when it is issued or renewed; 60641

(2) Procedures and criteria for denying, refusing to renew, 60642
terminating, and revoking licenses and for ordering the suspension 60643
of admissions to a facility, placement of a monitor at a facility, 60644
and the immediate removal of residents from a facility; 60645

(3) Fees for issuing and renewing licenses, which shall be 60646
deposited into the program fee fund created under section 5123.033 60647
of the Revised Code; 60648

(4) Procedures for surveying residential facilities; 60649

(5) Requirements for the training of residential facility 60650
personnel; 60651

(6) Classifications for the various types of residential 60652
facilities; 60653

(7) Certification procedures for licensees and management 60654
contractors that the director determines are necessary to ensure 60655
that they have the skills and qualifications to properly operate 60656
or manage residential facilities; 60657

(8) The maximum number of persons who may be served in a 60658
particular type of residential facility; 60659

(9) Uniform procedures for admission of persons to and 60660
transfers and discharges of persons from residential facilities; 60661

(10) Other standards for the operation of residential 60662
facilities and the services provided at residential facilities; 60663

(11) Procedures for waiving any provision of any rule adopted 60664
under this section. 60665

(I) Before issuing a license, the director of the department 60666
or the director's designee shall conduct a survey of the 60667
residential facility for which application is made. The director 60668
or the director's designee shall conduct a survey of each licensed 60669
residential facility at least once during the period the license 60670
is valid and may conduct additional inspections as needed. A 60671
survey includes but is not limited to an on-site examination and 60672
evaluation of the residential facility, its personnel, and the 60673
services provided there. 60674

In conducting surveys, the director or the director's 60675
designee shall be given access to the residential facility; all 60676
records, accounts, and any other documents related to the 60677
operation of the facility; the licensee; the residents of the 60678
facility; and all persons acting on behalf of, under the control 60679
of, or in connection with the licensee. The licensee and all 60680
persons on behalf of, under the control of, or in connection with 60681
the licensee shall cooperate with the director or the director's 60682
designee in conducting the survey. 60683

Following each survey, unless the director initiates a 60684
license revocation proceeding, the director or the director's 60685
designee shall provide the licensee with a report listing any 60686
deficiencies, specifying a timetable within which the licensee 60687
shall submit a plan of correction describing how the deficiencies 60688
will be corrected, and, when appropriate, specifying a timetable 60689
within which the licensee must correct the deficiencies. After a 60690

plan of correction is submitted, the director or the director's 60691
designee shall approve or disapprove the plan. A copy of the 60692
report and any approved plan of correction shall be provided to 60693
any person who requests it. 60694

The director shall initiate disciplinary action against any 60695
department employee who notifies or causes the notification to any 60696
unauthorized person of an unannounced survey of a residential 60697
facility by an authorized representative of the department. 60698

(J) In addition to any other information which may be 60699
required of applicants for a license pursuant to this section, the 60700
director shall require each applicant to provide a copy of an 60701
approved plan for a proposed residential facility pursuant to 60702
section 5123.042 of the Revised Code. This division does not apply 60703
to renewal of a license or to an applicant for an initial or 60704
modified license who meets the requirements of section ~~5123.193~~ or 60705
5123.197 of the Revised Code. 60706

(K) A licensee shall notify the owner of the building in 60707
which the licensee's residential facility is located of any 60708
significant change in the identity of the licensee or management 60709
contractor before the effective date of the change if the licensee 60710
is not the owner of the building. 60711

Pursuant to rules which shall be adopted in accordance with 60712
Chapter 119. of the Revised Code, the director may require 60713
notification to the department of any significant change in the 60714
ownership of a residential facility or in the identity of the 60715
licensee or management contractor. If the director determines that 60716
a significant change of ownership is proposed, the director shall 60717
consider the proposed change to be an application for development 60718
by a new operator pursuant to section 5123.042 of the Revised Code 60719
and shall advise the applicant within sixty days of the 60720
notification that the current license shall continue in effect or 60721
a new license will be required pursuant to this section. If the 60722

director requires a new license, the director shall permit the 60723
facility to continue to operate under the current license until 60724
the new license is issued, unless the current license is revoked, 60725
refused to be renewed, or terminated in accordance with Chapter 60726
119. of the Revised Code. 60727

(L) A county board of developmental disabilities, the legal 60728
rights service, and any interested person may file complaints 60729
alleging violations of statute or department rule relating to 60730
residential facilities with the department. All complaints shall 60731
be in writing and shall state the facts constituting the basis of 60732
the allegation. The department shall not reveal the source of any 60733
complaint unless the complainant agrees in writing to waive the 60734
right to confidentiality or until so ordered by a court of 60735
competent jurisdiction. 60736

The department shall adopt rules in accordance with Chapter 60737
119. of the Revised Code establishing procedures for the receipt, 60738
referral, investigation, and disposition of complaints filed with 60739
the department under this division. 60740

(M) The department shall establish procedures for the 60741
notification of interested parties of the transfer or interim care 60742
of residents from residential facilities that are closing or are 60743
losing their license. 60744

(N) Before issuing a license under this section to a 60745
residential facility that will accommodate at any time more than 60746
one mentally retarded or developmentally disabled individual, the 60747
director shall, by first class mail, notify the following: 60748

(1) If the facility will be located in a municipal 60749
corporation, the clerk of the legislative authority of the 60750
municipal corporation; 60751

(2) If the facility will be located in unincorporated 60752
territory, the clerk of the appropriate board of county 60753

commissioners and the fiscal officer of the appropriate board of township trustees. 60754
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The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officials time in which to comment on the proposed issuance. 60756
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Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the director receives written comments from any notified officials within the specified time, the director shall make written findings concerning the comments and the director's decision on the issuance of the license. If the director does not receive written comments from any notified local officials within the specified time, the director shall continue the process for issuance of the license. 60760
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(O) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least six but not more than eight persons with mental retardation or a developmental disability as a permitted use in any residential district or zone, including any single-family residential district or zone, of any political subdivision. These residential facilities may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone. 60773
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(P) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation 60784
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services, and supervision in a family setting for at least nine 60786
but not more than sixteen persons with mental retardation or a 60787
developmental disability as a permitted use in any multiple-family 60788
residential district or zone of any political subdivision, except 60789
that a political subdivision that has enacted a zoning ordinance 60790
or resolution establishing planned unit development districts may 60791
exclude these residential facilities from those districts, and a 60792
political subdivision that has enacted a zoning ordinance or 60793
resolution may regulate these residential facilities in 60794
multiple-family residential districts or zones as a conditionally 60795
permitted use or special exception, in either case, under 60796
reasonable and specific standards and conditions set out in the 60797
zoning ordinance or resolution to: 60798

(1) Require the architectural design and site layout of the 60799
residential facility and the location, nature, and height of any 60800
walls, screens, and fences to be compatible with adjoining land 60801
uses and the residential character of the neighborhood; 60802

(2) Require compliance with yard, parking, and sign 60803
regulation; 60804

(3) Limit excessive concentration of these residential 60805
facilities. 60806

(Q) This section does not prohibit a political subdivision 60807
from applying to residential facilities nondiscriminatory 60808
regulations requiring compliance with health, fire, and safety 60809
regulations and building standards and regulations. 60810

(R) Divisions (O) and (P) of this section are not applicable 60811
to municipal corporations that had in effect on June 15, 1977, an 60812
ordinance specifically permitting in residential zones licensed 60813
residential facilities by means of permitted uses, conditional 60814
uses, or special exception, so long as such ordinance remains in 60815
effect without any substantive modification. 60816

(S)(1) The director may issue an interim license to operate a residential facility to an applicant for a license under this section if either of the following is the case:

(a) The director determines that an emergency exists requiring immediate placement of persons in a residential facility, that insufficient licensed beds are available, and that the residential facility is likely to receive a permanent license under this section within thirty days after issuance of the interim license.

(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility.

(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license.

(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred fifty days.

(4) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the issuance of interim licenses.

(T) Notwithstanding rules adopted pursuant to this section establishing the maximum number of persons who may be served in a particular type of residential facility, a residential facility shall be permitted to serve the same number of persons being served by the facility on the effective date of the rules or the number of persons for which the facility is authorized pursuant to a current application for a certificate of need with a letter of support from the department of developmental disabilities and

which is in the review process prior to April 4, 1986. 60848

(U) The director or the director's designee may enter at any 60849
time, for purposes of investigation, any home, facility, or other 60850
structure that has been reported to the director or that the 60851
director has reasonable cause to believe is being operated as a 60852
residential facility without a license issued under this section. 60853

The director may petition the court of common pleas of the 60854
county in which an unlicensed residential facility is located for 60855
an order enjoining the person or governmental agency operating the 60856
facility from continuing to operate without a license. The court 60857
may grant the injunction on a showing that the person or 60858
governmental agency named in the petition is operating a 60859
residential facility without a license. The court may grant the 60860
injunction, regardless of whether the residential facility meets 60861
the requirements for receiving a license under this section. 60862

Sec. 5123.192. (A) A person or government agency operating, 60863
on the effective date of this section, an intermediate care 60864
facility for the mentally retarded pursuant to a nursing home 60865
license issued under Chapter 3721. of the Revised Code shall do 60866
both of the following as a condition of continuing to operate the 60867
facility on and after July 1, 2013: 60868

(1) Not later than February 1, 2013, apply to the director of 60869
developmental disabilities for a residential facility license 60870
under section 5123.19 of the Revised Code for the facility; 60871

(2) Not later than July 1, 2013, obtain the residential 60872
facility license for the facility. 60873

(B) The nursing home license of an intermediate care facility 60874
for the mentally retarded shall cease to be valid at the earliest 60875
of the following: 60876

(1) The date that the facility's nursing home license is 60877

revoked or voided under section 3721.07 of the Revised Code; 60878

(2) The date that a residential facility license is obtained 60879
for the facility under section 5123.19 of the Revised Code; 60880

(3) July 1, 2013. 60881

(C) No bed that is part of an intermediate care facility for 60882
the mentally retarded that is licensed as a nursing home on the 60883
effective date of this section may be used as part of a nursing 60884
home on and after the earlier of the following: 60885

(1) The date that a residential facility license is obtained 60886
for the facility under section 5123.19 of the Revised Code; 60887

(2) July 1, 2013. 60888

Sec. 5123.31. (A) The department of developmental 60889
disabilities shall keep ~~in its office, accessible only to its~~ 60890
~~employees, except by the consent of the department or the order of~~ 60891
~~the judge of a court of record,~~ a record showing the name, 60892
residence, sex, age, nativity, occupation, condition, and date of 60893
entrance or commitment of every resident in the institutions 60894
governed by it, the date, cause, and terms of discharge and the 60895
condition of such person at the time of leaving, and also a record 60896
of all transfers from one institution to another, and, if such 60897
person dies while in the care or custody of the department, the 60898
date and cause of death. These and such other facts as the 60899
department requires shall be furnished by the managing officer of 60900
each institution within ten days after the commitment, entrance, 60901
death, or discharge of a resident. 60902

Except as provided in division (C) of this section, the 60903
department shall maintain the records described in this division 60904
in its office. The department shall make the records accessible 60905
only to its employees, except by the consent of the department or 60906
the order of the judge of a court of record. 60907

(B) In case of an accident or injury or peculiar death of a 60908
an institution resident the managing officer shall make a special 60909
report to the department within twenty-four hours thereafter, 60910
giving the circumstances as fully as possible. 60911

(C) After a period of time determined by the department, the 60912
records described in division (A) of this section may be deposited 60913
with the Ohio historical society. Neither the records nor the 60914
information contained in them shall be disclosed by the historical 60915
society, except as provided in section 5123.89 of the Revised 60916
Code. 60917

Sec. 5123.38. (A) Except as provided in division (B) ~~and (C)~~ 60918
of this section, if an individual receiving supported living or 60919
home and community-based services funded by a county board of 60920
developmental disabilities is committed to a state-operated 60921
intermediate care facility for the mentally retarded pursuant to 60922
sections 5123.71 to 5123.76 of the Revised Code, ~~the department of~~ 60923
~~developmental disabilities shall use the funds otherwise allocated~~ 60924
~~to~~ the county board as is responsible for the nonfederal share of 60925
medicaid expenditures for the individual's care in the 60926
state-operated facility. The department of developmental 60927
disabilities shall collect the amount of the nonfederal share from 60928
the county board by either withholding that amount from funds the 60929
department has otherwise allocated to the county board or 60930
submitting an invoice for payment of that amount to the county 60931
board. 60932

(B) Division (A) of this section does not apply ~~if the~~ under 60933
any of the following circumstances: 60934

(1) The county board, not later than ninety days after the 60935
date of the commitment of a person receiving supported ~~services~~ 60936
living, commences funding of supported living for an individual 60937
who resides in a state-operated intermediate care facility for the 60938

mentally retarded on the date of the commitment or another 60939
eligible individual designated by the department. 60940

~~(C) Division (A) of this section does not apply if the (2)~~ 60941
The county board, not later than ninety days after the date of the 60942
commitment of a person receiving home and community-based 60943
services, commences funding of home and community-based services 60944
for an individual who resides in a state-operated intermediate 60945
care facility for the mentally retarded on the date of the 60946
commitment or another eligible individual designated by the 60947
department. 60948

(3) The director of developmental disabilities, after 60949
determining that circumstances warrant granting a waiver in an 60950
individual's case, grants the county board a waiver that exempts 60951
the county board from responsibility for the nonfederal share for 60952
that case. 60953

Sec. 5123.41. As used in this section and sections 5123.42 to 60954
5123.47 of the Revised Code: 60955

(A) "Adult services" has the same meaning as in section 60956
5126.01 of the Revised Code. 60957

(B) "Certified supported living provider" means a person or 60958
government entity certified under section 5123.161 of the Revised 60959
Code. 60960

(C) "Drug" has the same meaning as in section 4729.01 of the 60961
Revised Code. 60962

(D) "Family support services" has the same meaning as in 60963
section 5126.01 of the Revised Code. 60964

(E) "Health-related activities" means the following: 60965

(1) Taking vital signs; 60966

(2) Application of clean dressings that do not require health 60967

assessment;	60968
(3) Basic measurement of bodily intake and output;	60969
(4) Oral suctioning;	60970
(5) Use of glucometers;	60971
(6) External urinary catheter care;	60972
(7) Emptying and replacing colostomy bags;	60973
(8) Collection of specimens by noninvasive means.	60974
(F) "Licensed health professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code.	60975 60976 60977
(G) "MR/DD personnel" means the employees and the workers under contract who provide specialized services to individuals with mental retardation and developmental disabilities. "MR/DD personnel" includes those who provide the services as follows:	60978 60979 60980 60981
(1) Through direct employment with the department of developmental disabilities or a county board of developmental disabilities;	60982 60983 60984
(2) Through an entity under contract with the department of developmental disabilities or a county board of developmental disabilities;	60985 60986 60987
(3) Through direct employment or by being under contract with private entities, including private entities that operate residential facilities.	60988 60989 60990
(H) "Nursing delegation" means the process established in rules adopted by the board of nursing pursuant to Chapter 4723. of the Revised Code under which a registered nurse or licensed practical nurse acting at the direction of a registered nurse transfers the performance of a particular nursing activity or task to another person who is not otherwise authorized to perform the	60991 60992 60993 60994 60995 60996

activity or task.	60997
(I) "Prescribed medication" means a drug that is to be administered according to the instructions of a licensed health professional authorized to prescribe drugs.	60998 60999 61000
(J) "Residential facility" means a facility licensed under section 5123.19 of the Revised Code or subject to section 5123.192 of the Revised Code.	61001 61002 61003
(K) "Specialized services" has the same meaning as in section 5123.50 of the Revised Code.	61004 61005
(L) "Tube feeding" means the provision of nutrition to an individual through a gastrostomy tube or a jejunostomy tube.	61006 61007
Sec. 5123.50. As used in this section and sections 5123.51, 5123.52, and 5123.541 <u>5123.50 to 5123.542</u> of the Revised Code:	61008 61009
(A) "Abuse" means all of the following:	61010
(1) The use of physical force that can reasonably be expected to result in physical harm or serious physical harm;	61011 61012
(2) Sexual abuse;	61013
(3) Verbal abuse.	61014
(B) "Misappropriation" means depriving, defrauding, or otherwise obtaining the real or personal property of an individual by any means prohibited by the Revised Code, including violations of Chapter 2911. or 2913. of the Revised Code.	61015 61016 61017 61018
(C) "MR/DD employee" means all of the following:	61019
(1) An employee of the department of developmental disabilities;	61020 61021
(2) An employee of a county board of developmental disabilities;	61022 61023
(3) An employee in a position that includes providing	61024

specialized services to an individual with mental retardation or 61025
another developmental disability; 61026

(4) An independent provider as defined in section 5123.16 of 61027
the Revised Code. 61028

(D) "Neglect" means, when there is a duty to do so, failing 61029
to provide an individual with any treatment, care, goods, or 61030
services that are necessary to maintain the health and safety of 61031
the individual. 61032

(E) "Offense of violence" has the same meaning as in section 61033
2901.01 of the Revised Code. 61034

(F) "Physical harm" and "serious physical harm" have the same 61035
meanings as in section 2901.01 of the Revised Code. 61036

~~(F)~~(G) "Prescribed medication" has the same meaning as in 61037
section 5123.41 of the Revised Code. 61038

(H) "Sexual abuse" means unlawful sexual conduct or sexual 61039
contact. 61040

~~(G)~~(I) "Specialized services" means any program or service 61041
designed and operated to serve primarily individuals with mental 61042
retardation or a developmental disability, including a program or 61043
service provided by an entity licensed or certified by the 61044
department of developmental disabilities. A program or service 61045
available to the general public is not a specialized service. 61046

~~(H)~~(J) "Verbal abuse" means purposely using words to 61047
threaten, coerce, intimidate, harass, or humiliate an individual. 61048

~~(I)~~(K) "Sexual conduct," "sexual contact," and "spouse" have 61049
the same meanings as in section 2907.01 of the Revised Code. 61050

Sec. 5123.51. (A) In addition to any other action required by 61051
sections 5123.61 and 5126.31 of the Revised Code, the department 61052
of developmental disabilities shall review each report the 61053

department receives of abuse or neglect of an individual with 61054
mental retardation or a developmental disability or 61055
misappropriation of an individual's property that includes an 61056
allegation that an MR/DD employee committed or was responsible for 61057
the abuse, neglect, or misappropriation. The department shall 61058
review a report it receives from a public children services agency 61059
only after the agency completes its investigation pursuant to 61060
section 2151.421 of the Revised Code. On receipt of a notice under 61061
section 2930.061 or 5123.541 of the Revised Code, the department 61062
shall review the notice. 61063

(B) The department shall do both of the following: 61064

(1) Investigate the allegation or adopt the findings of an 61065
investigation or review of the allegation conducted by another 61066
person or government entity and determine whether there is a 61067
reasonable basis for the allegation; 61068

(2) If the department determines that there is a reasonable 61069
basis for the allegation, conduct an adjudication pursuant to 61070
Chapter 119. of the Revised Code. 61071

(C)(1) The department shall appoint an independent hearing 61072
officer to conduct any hearing conducted pursuant to division 61073
(B)(2) of this section, except that, if the hearing is regarding 61074
an employee of the department who is represented by a union, the 61075
department and a representative of the union shall jointly select 61076
the hearing officer. 61077

(2)(a) Except as provided in division (C)(2)(b) of this 61078
section, no hearing shall be conducted under division (B)(2) of 61079
this section until any criminal proceeding or collective 61080
bargaining arbitration concerning the same allegation has 61081
concluded. 61082

(b) The department may conduct a hearing pursuant to division 61083
(B)(2) of this section before a criminal proceeding concerning the 61084

same allegation is concluded if both of the following are the 61085
case: 61086

(i) The department notifies the prosecutor responsible for 61087
the criminal proceeding that the department proposes to conduct a 61088
hearing. 61089

(ii) The prosecutor consents to the hearing. 61090

(3) In conducting a hearing pursuant to division (B)(2) of 61091
this section, the hearing officer shall do all of the following: 61092

(a) Determine whether there is clear and convincing evidence 61093
that the MR/DD employee has done any of the following: 61094

(i) Misappropriated property of one or more individuals with 61095
mental retardation or a developmental disability that has a value, 61096
either separately or taken together, of one hundred dollars or 61097
more; 61098

(ii) Misappropriated property of an individual with mental 61099
retardation or a developmental disability that is designed to be 61100
used as a check, draft, negotiable instrument, credit card, charge 61101
card, or device for initiating an electronic fund transfer at a 61102
point of sale terminal, automated teller machine, or cash 61103
dispensing machine; 61104

(iii) Misappropriated prescribed medication of an individual 61105
with mental retardation or a developmental disability; 61106

(iv) Knowingly abused such an individual; 61107

~~(iv)~~(v) Recklessly abused or neglected such an individual, 61108
with resulting physical harm; 61109

~~(v)~~(vi) Negligently abused or neglected such an individual, 61110
with resulting serious physical harm; 61111

~~(vi)~~(vii) Recklessly neglected such an individual, creating a 61112
substantial risk of serious physical harm; 61113

~~(vii)~~(viii) Engaged in sexual conduct or had sexual contact 61114
with an individual with mental retardation or another 61115
developmental disability who was not the MR/DD employee's spouse 61116
and for whom the MR/DD employee was employed or under a contract 61117
to provide care; 61118

~~(viii)~~(ix) Unreasonably failed to make a report pursuant to 61119
division (C) of section 5123.61 of the Revised Code when the 61120
employee knew or should have known that the failure would result 61121
in a substantial risk of harm to an individual with mental 61122
retardation or a developmental disability; 61123

(x) Been convicted of or entered a plea of guilty to any of 61124
the following if the victim of the offense is an individual with 61125
mental retardation or a developmental disability: an offense of 61126
violence, a violation of a section contained in Chapter 2907. or 61127
Chapter 2913. of the Revised Code, or a violation of section 61128
2903.16, 2903.34, 2903.341, or 2919.22 of the Revised Code. 61129

(b) Give weight to the decision in any collective bargaining 61130
arbitration regarding the same allegation; 61131

(c) Give weight to any relevant facts presented at the 61132
hearing. 61133

(D)(1) Unless the director of developmental disabilities 61134
determines that there are extenuating circumstances and except as 61135
provided in division (E) of this section, if the director, after 61136
considering all of the factors listed in division (C)(3) of this 61137
section, finds that there is clear and convincing evidence that an 61138
MR/DD employee has done one or more of the things described in 61139
division (C)(3)(a) of this section the director shall include the 61140
name of the employee in the registry established under section 61141
5123.52 of the Revised Code. 61142

(2) Extenuating circumstances the director must consider 61143
include the use of physical force by an MR/DD employee that was 61144

necessary as self-defense. 61145

(3) If the director includes an MR/DD employee in the 61146
registry established under section 5123.52 of the Revised Code, 61147
the director shall notify the employee, the person or government 61148
entity that employs or contracts with the employee, the individual 61149
with mental retardation or a developmental disability who was the 61150
subject of the report and that individual's legal guardian, if 61151
any, the attorney general, and the prosecuting attorney or other 61152
law enforcement agency. If the MR/DD employee holds a license, 61153
certificate, registration, or other authorization to engage in a 61154
profession issued pursuant to Title XLVII of the Revised Code, the 61155
director shall notify the appropriate agency, board, department, 61156
or other entity responsible for regulating the employee's 61157
professional practice. 61158

(4) If an individual whose name appears on the registry is 61159
involved in a court proceeding or arbitration arising from the 61160
same facts as the allegation resulting in the individual's 61161
placement on the registry, the disposition of the proceeding or 61162
arbitration shall be noted in the registry next to the 61163
individual's name. 61164

(E) In the case of an allegation concerning an employee of 61165
the department, after the hearing conducted pursuant to division 61166
(B)(2) of this section, the director of health or that director's 61167
designee shall review the decision of the hearing officer to 61168
determine whether the standard described in division (C)(3) of 61169
this section has been met. If the director or designee determines 61170
that the standard has been met and that no extenuating 61171
circumstances exist, the director or designee shall notify the 61172
director of developmental disabilities that the MR/DD employee is 61173
to be included in the registry established under section 5123.52 61174
of the Revised Code. If the director of developmental disabilities 61175
receives such notification, the director shall include the MR/DD 61176

employee in the registry and shall provide the notification 61177
described in division (D)(3) of this section. 61178

(F) If the department is required by Chapter 119. of the 61179
Revised Code to give notice of an opportunity for a hearing and 61180
the MR/DD employee subject to the notice does not timely request a 61181
hearing in accordance with section 119.07 or 5123.0414 of the 61182
Revised Code, the department is not required to hold a hearing. 61183

(G) Files and records of investigations conducted pursuant to 61184
this section are not public records as defined in section 149.43 61185
of the Revised Code, but, on request, the department shall provide 61186
copies of those files and records to the attorney general, a 61187
prosecuting attorney, or a law enforcement agency. 61188

Sec. 5123.542. (A) Each of the following shall annually 61189
provide a written notice to each of its MR/DD employees explaining 61190
the conduct for which an MR/DD employee may be included in the 61191
registry established under section 5123.52 of the Revised Code: 61192

(1) The department of developmental disabilities; 61193

(2) Each county board of developmental disabilities; 61194

(3) Each ~~contracting entity~~ provider and subcontractor, as 61195
defined in section ~~5126.281~~ 5123.081 of the Revised Code; 61196

(4) Each owner, operator, or administrator of a residential 61197
facility, as defined in section 5123.19 of the Revised Code; 61198

(5) Each owner, operator, or administrator of a program 61199
certified by the department to provide supported living. 61200

(B) The department of developmental disabilities or a county 61201
board of developmental disabilities shall provide the notice 61202
required by division (A) of this section to an MR/DD employee who 61203
is an independent provider as defined in section 5123.16 of the 61204
Revised Code. 61205

(C) The notice described in division (A) of this section shall be in a form and provided in a manner prescribed by the department of developmental disabilities. The form shall be the same for all persons and entities required to provide notice under division (A) of this section.

(C) The fact that an MR/DD employee does not receive the notice required by this section does not exempt the employee from inclusion in the registry established under section 5123.52 of the Revised Code.

Sec. 5123.61. (A) As used in this section:

(1) "Law enforcement agency" means the state highway patrol, the police department of a municipal corporation, or a county sheriff.

(2) "Abuse" has the same meaning as in section 5123.50 of the Revised Code, except that it includes a misappropriation, as defined in that section.

(3) "Neglect" has the same meaning as in section 5123.50 of the Revised Code.

(B) The department of developmental disabilities shall establish a registry office for the purpose of maintaining reports of abuse, neglect, and other major unusual incidents made to the department under this section and reports received from county boards of developmental disabilities under section 5126.31 of the Revised Code. The department shall establish committees to review reports of abuse, neglect, and other major unusual incidents.

(C)(1) Any person listed in division (C)(2) of this section, having reason to believe that a person with mental retardation or a developmental disability has suffered or faces a substantial risk of suffering any wound, injury, disability, or condition of such a nature as to reasonably indicate abuse or neglect of that

person, shall immediately report or cause reports to be made of 61236
such information to the entity specified in this division. Except 61237
as provided in section 5120.173 of the Revised Code or as 61238
otherwise provided in this division, the person making the report 61239
shall make it to a law enforcement agency or to the county board 61240
of developmental disabilities. If the report concerns a resident 61241
of a facility operated by the department of developmental 61242
disabilities the report shall be made either to a law enforcement 61243
agency or to the department. If the report concerns any act or 61244
omission of an employee of a county board of developmental 61245
disabilities, the report immediately shall be made to the 61246
department and to the county board. 61247

(2) All of the following persons are required to make a 61248
report under division (C)(1) of this section: 61249

(a) Any physician, including a hospital intern or resident, 61250
any dentist, podiatrist, chiropractor, practitioner of a limited 61251
branch of medicine as specified in section 4731.15 of the Revised 61252
Code, hospital administrator or employee of a hospital, nurse 61253
licensed under Chapter 4723. of the Revised Code, employee of an 61254
ambulatory health facility as defined in section 5101.61 of the 61255
Revised Code, employee of a home health agency, employee of ~~an~~ 61256
~~adult care residential~~ facility licensed under ~~Chapter 3722.~~ 61257
section 5119.22 of the Revised Code that provides accommodations, 61258
supervision, and personal care services for three to sixteen 61259
unrelated adults, or employee of a community mental health 61260
facility; 61261

(b) Any school teacher or school authority, social worker, 61262
psychologist, attorney, peace officer, coroner, or residents' 61263
rights advocate as defined in section 3721.10 of the Revised Code; 61264

(c) A superintendent, board member, or employee of a county 61265
board of developmental disabilities; an administrator, board 61266
member, or employee of a residential facility licensed under 61267

section 5123.19 of the Revised Code; an administrator, board member, or employee of any other public or private provider of services to a person with mental retardation or a developmental disability, or any MR/DD employee, as defined in section 5123.50 of the Revised Code;

(d) A member of a citizen's advisory council established at an institution or branch institution of the department of developmental disabilities under section 5123.092 of the Revised Code;

(e) A ~~clergyman~~ member of the clergy who is employed in a position that includes providing specialized services to an individual with mental retardation or another developmental disability, while acting in an official or professional capacity in that position, or a person who is employed in a position that includes providing specialized services to an individual with mental retardation or another developmental disability and who, while acting in an official or professional capacity, renders spiritual treatment through prayer in accordance with the tenets of an organized religion.

(3)(a) The reporting requirements of this division do not apply to members of the legal rights service commission or to employees of the legal rights service.

(b) An attorney or physician is not required to make a report pursuant to division (C)(1) of this section concerning any communication the attorney or physician receives from a client or patient in an attorney-client or physician-patient relationship, if, in accordance with division (A) or (B) of section 2317.02 of the Revised Code, the attorney or physician could not testify with respect to that communication in a civil or criminal proceeding, except that the client or patient is deemed to have waived any testimonial privilege under division (A) or (B) of section 2317.02 of the Revised Code with respect to that communication and the

attorney or physician shall make a report pursuant to division 61300
(C)(1) of this section, if both of the following apply: 61301

(i) The client or patient, at the time of the communication, 61302
is a person with mental retardation or a developmental disability. 61303

(ii) The attorney or physician knows or suspects, as a result 61304
of the communication or any observations made during that 61305
communication, that the client or patient has suffered or faces a 61306
substantial risk of suffering any wound, injury, disability, or 61307
condition of a nature that reasonably indicates abuse or neglect 61308
of the client or patient. 61309

(4) Any person who fails to make a report required under 61310
division (C) of this section and who is an MR/DD employee, as 61311
defined in section 5123.50 of the Revised Code, shall be eligible 61312
to be included in the registry regarding misappropriation, abuse, 61313
neglect, or other specified misconduct by MR/DD employees 61314
established under section 5123.52 of the Revised Code. 61315

(D) The reports required under division (C) of this section 61316
shall be made forthwith by telephone or in person and shall be 61317
followed by a written report. The reports shall contain the 61318
following: 61319

(1) The names and addresses of the person with mental 61320
retardation or a developmental disability and the person's 61321
custodian, if known; 61322

(2) The age of the person with mental retardation or a 61323
developmental disability; 61324

(3) Any other information that would assist in the 61325
investigation of the report. 61326

(E) When a physician performing services as a member of the 61327
staff of a hospital or similar institution has reason to believe 61328
that a person with mental retardation or a developmental 61329

disability has suffered injury, abuse, or physical neglect, the 61330
physician shall notify the person in charge of the institution or 61331
that person's designated delegate, who shall make the necessary 61332
reports. 61333

(F) Any person having reasonable cause to believe that a 61334
person with mental retardation or a developmental disability has 61335
suffered or faces a substantial risk of suffering abuse or neglect 61336
may report or cause a report to be made of that belief to the 61337
entity specified in this division. Except as provided in section 61338
5120.173 of the Revised Code or as otherwise provided in this 61339
division, the person making the report shall make it to a law 61340
enforcement agency or the county board of developmental 61341
disabilities. If the person is a resident of a facility operated 61342
by the department of developmental disabilities, the report shall 61343
be made to a law enforcement agency or to the department. If the 61344
report concerns any act or omission of an employee of a county 61345
board of developmental disabilities, the report immediately shall 61346
be made to the department and to the county board. 61347

(G)(1) Upon the receipt of a report concerning the possible 61348
abuse or neglect of a person with mental retardation or a 61349
developmental disability, the law enforcement agency shall inform 61350
the county board of developmental disabilities or, if the person 61351
is a resident of a facility operated by the department of 61352
developmental disabilities, the director of the department or the 61353
director's designee. 61354

(2) On receipt of a report under this section that includes 61355
an allegation of action or inaction that may constitute a crime 61356
under federal law or the law of this state, the department of 61357
developmental disabilities shall notify the law enforcement 61358
agency. 61359

(3) When a county board of developmental disabilities 61360
receives a report under this section that includes an allegation 61361

of action or inaction that may constitute a crime under federal 61362
law or the law of this state, the superintendent of the board or 61363
an individual the superintendent designates under division (H) of 61364
this section shall notify the law enforcement agency. The 61365
superintendent or individual shall notify the department of 61366
developmental disabilities when it receives any report under this 61367
section. 61368

(4) When a county board of developmental disabilities 61369
receives a report under this section and believes that the degree 61370
of risk to the person is such that the report is an emergency, the 61371
superintendent of the board or an employee of the board the 61372
superintendent designates shall attempt a face-to-face contact 61373
with the person with mental retardation or a developmental 61374
disability who allegedly is the victim within one hour of the 61375
board's receipt of the report. 61376

(H) The superintendent of the board may designate an 61377
individual to be responsible for notifying the law enforcement 61378
agency and the department when the county board receives a report 61379
under this section. 61380

(I) An adult with mental retardation or a developmental 61381
disability about whom a report is made may be removed from the 61382
adult's place of residence only by law enforcement officers who 61383
consider that the adult's immediate removal is essential to 61384
protect the adult from further injury or abuse or in accordance 61385
with the order of a court made pursuant to section 5126.33 of the 61386
Revised Code. 61387

(J) A law enforcement agency shall investigate each report of 61388
abuse or neglect it receives under this section. In addition, the 61389
department, in cooperation with law enforcement officials, shall 61390
investigate each report regarding a resident of a facility 61391
operated by the department to determine the circumstances 61392
surrounding the injury, the cause of the injury, and the person 61393

responsible. The investigation shall be in accordance with the 61394
memorandum of understanding prepared under section 5126.058 of the 61395
Revised Code. The department shall determine, with the registry 61396
office which shall be maintained by the department, whether prior 61397
reports have been made concerning an adult with mental retardation 61398
or a developmental disability or other principals in the case. If 61399
the department finds that the report involves action or inaction 61400
that may constitute a crime under federal law or the law of this 61401
state, it shall submit a report of its investigation, in writing, 61402
to the law enforcement agency. If the person with mental 61403
retardation or a developmental disability is an adult, with the 61404
consent of the adult, the department shall provide such protective 61405
services as are necessary to protect the adult. The law 61406
enforcement agency shall make a written report of its findings to 61407
the department. 61408

If the person is an adult and is not a resident of a facility 61409
operated by the department, the county board of developmental 61410
disabilities shall review the report of abuse or neglect in 61411
accordance with sections 5126.30 to 5126.33 of the Revised Code 61412
and the law enforcement agency shall make the written report of 61413
its findings to the county board. 61414

(K) Any person or any hospital, institution, school, health 61415
department, or agency participating in the making of reports 61416
pursuant to this section, any person participating as a witness in 61417
an administrative or judicial proceeding resulting from the 61418
reports, or any person or governmental entity that discharges 61419
responsibilities under sections 5126.31 to 5126.33 of the Revised 61420
Code shall be immune from any civil or criminal liability that 61421
might otherwise be incurred or imposed as a result of such actions 61422
except liability for perjury, unless the person or governmental 61423
entity has acted in bad faith or with malicious purpose. 61424

(L) No employer or any person with the authority to do so 61425

shall discharge, demote, transfer, prepare a negative work 61426
performance evaluation, reduce pay or benefits, terminate work 61427
privileges, or take any other action detrimental to an employee or 61428
retaliate against an employee as a result of the employee's having 61429
made a report under this section. This division does not preclude 61430
an employer or person with authority from taking action with 61431
regard to an employee who has made a report under this section if 61432
there is another reasonable basis for the action. 61433

(M) Reports made under this section are not public records as 61434
defined in section 149.43 of the Revised Code. Information 61435
contained in the reports on request shall be made available to the 61436
person who is the subject of the report, to the person's legal 61437
counsel, and to agencies authorized to receive information in the 61438
report by the department or by a county board of developmental 61439
disabilities. 61440

(N) Notwithstanding section 4731.22 of the Revised Code, the 61441
physician-patient privilege shall not be a ground for excluding 61442
evidence regarding the injuries or physical neglect of a person 61443
with mental retardation or a developmental disability or the cause 61444
thereof in any judicial proceeding resulting from a report 61445
submitted pursuant to this section. 61446

Sec. 5123.89. (A) All certificates, applications, records, 61447
and reports made for the purpose of this chapter, other than court 61448
journal entries or court docket entries, which directly or 61449
indirectly identify a resident or former resident of an 61450
institution for the mentally retarded or person whose 61451
institutionalization has been sought under this chapter shall be 61452
kept confidential and shall not be disclosed by any person except 61453
in the following situations: 61454

(1) It is the judgment of the court for judicial records, and 61455
the managing officer for institution records, that disclosure is 61456

in the best interest of the person identified, and that person or 61457
that person's guardian or, if that person is a minor, that 61458
person's parent or guardian consents. 61459

(2) Disclosure is provided for in other sections of this 61460
chapter. 61461

(3) It is the judgment of the managing officer for 61462
institution records that disclosure to a mental health facility is 61463
in the best interest of the person identified. 61464

(4) Disclosure is of a record deposited with the Ohio 61465
historical society pursuant to division (C) of section 5123.31 of 61466
the Revised Code and the disclosure is made to the closest living 61467
relative of the person identified, on the relative's request. 61468

(B) The department of developmental disabilities shall adopt 61469
rules with respect to the systematic and periodic destruction of 61470
residents' records. 61471

(C)(1) As used in this division, "family" means a parent, 61472
brother, sister, spouse, son, daughter, grandparent, aunt, uncle, 61473
or cousin. 61474

(2) Upon the death of a resident or former resident of an 61475
institution for the mentally retarded or a person whose 61476
institutionalization was sought under this chapter, the managing 61477
officer of an institution shall provide access to the 61478
certificates, applications, records, and reports made for the 61479
purposes of this chapter to the resident's, former resident's, or 61480
person's guardian if the guardian makes a written request. If a 61481
deceased resident, former resident, or person whose 61482
institutionalization was sought under this chapter did not have a 61483
guardian at the time of death, the managing officer shall provide 61484
access to the certificates, applications, records, and reports 61485
made for purposes of this chapter to a member of the person's 61486
family, upon that family member's written request. 61487

(D) No person shall reveal the contents of a record of a resident except as authorized by this chapter. 61488
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Sec. 5126.023. ~~(A)~~ None of the following individuals may serve as a member of a county board of developmental disabilities: 61490
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~~(1)~~(A) An elected public official, except for a township trustee, township fiscal officer, or individual excluded from the definition of public official or employee in division (B) of section 102.01 of the Revised Code; 61492
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~~(2)~~(B) An immediate family member of ~~another~~ a member of the same county board ~~member~~; 61496
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~~(3)~~ ~~A county board~~ (C) An employee ~~or of any county board;~~ 61498

(D) An immediate family member of a county board an employee of the same county board; 61499
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~~(4)~~(E) A former employee of ~~the~~ a county board whose employment ~~with the county board~~ ceased less than ~~one~~ four calendar ~~year~~ years before the former employee would begin to serve as a member of the same county board; 61501
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~~(5)~~(F) A former employee of a county board whose employment ceased less than two years before the former employee would begin to serve as a member of a different county board; 61505
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(G) An individual who or whose immediate family member is a board member ~~or an employee~~ of an agency licensed or certified by the department of developmental disabilities to provide services to individuals with mental retardation or developmental disabilities or an individual who or whose immediate family member is an employee of such an agency; 61508
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~~(6)~~ An individual who or whose immediate family member is a board member ~~or employee of an agency contracting with the county board that is not licensed or certified by the department of developmental disabilities to provide services to individuals with~~ 61514
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~~mental retardation or developmental disabilities unless there is
no conflict of interest;~~ 61518
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~~(7)(H)~~ An individual with an immediate family member who 61520
serves as a county commissioner of a county served by the county 61521
board unless the individual was a member of the county board 61522
before October 31, 1980. 61523

~~(B) All questions relating to the existence of a conflict of
interest for the purpose of division (A)(6) of this section shall
be submitted to the local prosecuting attorney for resolution. The
Ohio ethics commission may examine any issues arising under
Chapter 102. and sections 2921.42, 2921.421, and 2921.43 of the
Revised Code.~~ 61524
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Sec. 5126.0220. (A) The superintendent of the county board of 61530
developmental disabilities shall do all of the following: 61531

~~(A)(1)~~ Administer the work of the board, subject to the 61532
board's rules; 61533

~~(B)(2)~~ Recommend to the board the changes necessary to 61534
increase the effectiveness of the programs and services offered 61535
pursuant to Chapters 3323. and 5126. of the Revised Code; 61536

~~(C)(3)~~ Employ persons for all positions authorized by the 61537
board, approve contracts of employment for management employees 61538
that are for a term of one year or less, and approve personnel 61539
actions that involve employees in the classified civil service as 61540
may be necessary for the work of the board; 61541

~~(D)(4)~~ Approve compensation for employees within the limits 61542
set by the salary schedule and budget set by the board ~~and in~~ 61543
~~accordance with section 5126.26 of the Revised Code,~~ and ensure 61544
that all employees and consultants are properly reimbursed for 61545
actual and necessary expenses incurred in the performance of 61546
official duties; 61547

~~(E)~~(5) Provide consultation to public agencies as defined in 61548
division (C) of section 102.01 of the Revised Code, including 61549
other county boards of developmental disabilities, and to 61550
individuals, agencies, or organizations providing services 61551
supported by the board. 61552

(B) The superintendent may authorize the payment of board 61553
obligations by the county auditor. 61554

Sec. 5126.0221. (A) As used in this section, "specialized 61555
services" has the same meaning as in section ~~5126.281~~ 5123.081 of 61556
the Revised Code. 61557

(B) Except as provided in division (C) of section 5126.033 of 61558
the Revised Code, none of the following individuals may be 61559
employed by a county board of developmental disabilities: 61560

(1) An employee of an agency contracting with the county 61561
board; 61562

(2) An immediate family member of an employee of an agency 61563
contracting with the county board unless the county board adopts a 61564
resolution authorizing the immediate family member's employment 61565
with the county board or the employment is consistent with a 61566
policy adopted by the board establishing parameters for such 61567
employment and the policy is consistent with Chapter 102. and 61568
sections 2921.42, 2921.421, and 2921.43 of the Revised Code; 61569

(3) An individual with an immediate family member who serves 61570
as a county commissioner of any of the counties served by the 61571
county board unless the individual was an employee of the county 61572
board before October 31, 1980; 61573

(4) An individual who is employed by, has an ownership 61574
interest in, performs or provides administrative duties for, or is 61575
a member of the governing board of an entity that provides 61576
specialized services, regardless of whether the entity contracts 61577

with the county board to provide specialized services. 61578

~~Sec. 5126.043. When an individual with mental retardation or 61579
other developmental disability is required within this chapter to 61580
consent, refuse to give consent, or withdraw consent for services 61581
and the individual has been adjudicated incompetent pursuant to 61582
Chapter 2111. of the Revised Code, the guardian for the individual 61583
appointed under that chapter and functioning in accordance with 61584
the appointment shall be responsible for giving, refusing to give, 61585
or withdrawing the consent for services. 61586~~

Individuals (A) Unless a guardian has been appointed for the 61587
individual, when a decision regarding receipt of a service or 61588
participation in a program provided for or funded under this 61589
chapter or Chapter 5123. of the Revised Code by an individual with 61590
mental retardation or other developmental disability must be made, 61591
the individual shall be permitted to make the decision. The 61592
individual may obtain support and guidance from an adult family 61593
member or other person, but doing so does not affect the right of 61594
the individual to make the decision. 61595

(B) An individual with mental retardation or other 61596
developmental disability may authorize an adult to make a decision 61597
described in division (A) of this section on the individual's 61598
behalf, as long as the adult does not have a financial interest in 61599
the decision. The authorization shall be made in writing. 61600

(C) If a guardian has been appointed for an individual with 61601
mental retardation or other developmental disability, the guardian 61602
shall make any decision described in division (A) of this section 61603
on behalf of the individual. This section does not require 61604
appointment of a guardian. 61605

(D) Individuals with mental retardation and other 61606
developmental disabilities, including those who have been 61607
adjudicated incompetent pursuant to Chapter 2111. of the Revised 61608

Code, have the right to participate in decisions that affect their 61609
lives and to have their needs, desires, and preferences 61610
considered. An adult or guardian who makes a decision pursuant to 61611
division (B) or (C) of this section shall make a decision that is 61612
in the best interests of the individual on whose behalf the 61613
decision is made and that is consistent with the needs, desires, 61614
and preferences of that individual. 61615

~~Sec. 5126.046. (A) Each county board of developmental 61616
disabilities that has medicaid local administrative authority 61617
under division (A) of section 5126.055 of the Revised Code for 61618
habilitation, vocational, or community employment services 61619
provided as part of home and community based services shall create 61620
a list of all persons and government entities eligible to provide 61621
such habilitation, vocational, or community employment services. 61622
If the county board chooses and is eligible to provide such 61623
habilitation, vocational, or community employment services, the 61624
county board shall include itself on the list. The county board 61625
shall make the list available to each individual with mental 61626
retardation or other developmental disability who resides in the 61627
county and is eligible for such habilitation, vocational, or 61628
community employment services. The county board shall also make 61629
the list available to such individuals' families.~~ 61630

~~An Except as otherwise provided by 42 C.F.R. 431.51, an 61631
individual with mental retardation or other developmental 61632
disability who is eligible for ~~habilitation, vocational, or~~ 61633
~~community employment~~ home and community-based services ~~may choose~~ 61634
the has the right to obtain the services from any provider of the 61635
~~services.~~ 61636~~

~~(B) Each month, the department of developmental disabilities 61637
shall create a list of all persons and government entities 61638
eligible to provide residential services and supported living. The 61639~~

~~department shall include on the list all residential facilities 61640
licensed under section 5123.19 of the Revised Code and all 61641
supported living providers certified under section 5123.161 of the 61642
Revised Code. The department shall distribute the monthly lists to 61643
county boards that have local administrative authority under 61644
division (A) of section 5126.055 of the Revised Code for 61645
residential services and supported living provided as part of home 61646
and community based services. A county board that receives a list 61647
shall make it available to each individual with mental retardation 61648
or other developmental disability who resides in the county and is 61649
eligible for such residential services or supported living. The 61650
county board shall also make the list available to the families of 61651
those individuals that is qualified to furnish the services and is 61652
willing to furnish the services to the individual. A county board 61653
of developmental disabilities that has medicaid local 61654
administrative authority under division (A) of section 5126.055 of 61655
the Revised Code for home and community-based services and refuses 61656
to permit an individual to obtain home and community-based 61657
services from a qualified and willing provider shall provide the 61658
individual timely notice that the individual may request a hearing 61659
under section 5101.35 of the Revised Code. 61660~~

~~(B) An individual with mental retardation or other 61661
developmental disability who is eligible for nonmedicaid 61662
residential services or nonmedicaid supported living ~~may choose 61663
the~~ has the right to obtain the services from any provider of the 61664
residential services or supported living that is qualified to 61665
furnish the residential services or supported living and is 61666
willing to furnish the residential services or supported living to 61667
the individual. 61668~~

~~(C) If a county board that has medicaid local administrative 61669
authority under division (A) of section 5126.055 of the Revised 61670
Code for home and community based services violates the right 61671~~

~~established by this section of an individual to choose a provider that is qualified and willing to provide services to the individual, the individual shall receive timely notice that the individual may request a hearing under section 5101.35 of the Revised Code.~~

~~(D) The departments director of developmental disabilities and job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code governing the implementation of this section. The rules shall include procedures for individuals to choose their ~~service~~ providers. The rules shall not be limited by a provider selection system established under section 5126.42 of the Revised Code, including any pool of providers created pursuant to a provider selection system.~~

Sec. 5126.055. (A) Except as provided in section 5126.056 of the Revised Code, a county board of developmental disabilities has medicaid local administrative authority to, and shall, do all of the following for an individual with mental retardation or other developmental disability who resides in the county that the county board serves and seeks or receives home and community-based services:

(1) Perform assessments and evaluations of the individual. As part of the assessment and evaluation process, the county board shall do all of the following:

(a) Make a recommendation to the department of developmental disabilities on whether the department should approve or deny the individual's application for the services, including on the basis of whether the individual needs the level of care an intermediate care facility for the mentally retarded provides;

(b) If the individual's application is denied because of the county board's recommendation and the individual requests a hearing under section 5101.35 of the Revised Code, present, with

the department of developmental disabilities or department of job and family services, whichever denies the application, the reasons for the recommendation and denial at the hearing;

(c) If the individual's application is approved, recommend to the departments of developmental disabilities and job and family services the services that should be included in the individual's individualized service plan and, if either department approves, reduces, denies, or terminates a service included in the individual's individualized service plan under section 5111.871 of the Revised Code because of the county board's recommendation, present, with the department that made the approval, reduction, denial, or termination, the reasons for the recommendation and approval, reduction, denial, or termination at a hearing under section 5101.35 of the Revised Code.

(2) ~~In accordance with the rules adopted under section 5126.046 of the Revised Code, perform the county board's~~ Perform any duties assigned to the county board in rules adopted under ~~that~~ section 5126.046 of the Revised Code regarding ~~assisting~~ the individual's right to choose a qualified and willing provider of the services and, at a hearing under section 5101.35 of the Revised Code, present evidence of the process for appropriate assistance in choosing providers;

(3) If the county board is certified under section 5123.161 of the Revised Code to provide the services and agrees to provide the services to the individual and the individual chooses the county board to provide the services, furnish, in accordance with the county board's medicaid provider agreement and for the authorized reimbursement rate, the services the individual requires;

(4) Monitor the services provided to the individual and ensure the individual's health, safety, and welfare. The monitoring shall include quality assurance activities. If the

county board provides the services, the department of 61735
developmental disabilities shall also monitor the services. 61736

(5) Develop, with the individual and the provider of the 61737
individual's services, an effective individualized service plan 61738
that includes coordination of services, recommend that the 61739
departments of developmental disabilities and job and family 61740
services approve the plan, and implement the plan unless either 61741
department disapproves it. The individualized service plan shall 61742
include a summary page, agreed to by the county board, provider, 61743
and individual receiving services, that clearly outlines the 61744
amount, duration, and scope of services to be provided under the 61745
plan. 61746

(6) Have an investigative agent conduct investigations under 61747
section 5126.313 of the Revised Code that concern the individual; 61748

(7) Have a service and support administrator perform the 61749
duties under division (B)(9) of section 5126.15 of the Revised 61750
Code that concern the individual. 61751

(B) A county board shall perform its medicaid local 61752
administrative authority under this section in accordance with all 61753
of the following: 61754

(1) The county board's plan that the department of 61755
developmental disabilities approves under section 5123.046 of the 61756
Revised Code; 61757

(2) All applicable federal and state laws; 61758

(3) All applicable policies of the departments of 61759
developmental disabilities and job and family services and the 61760
United States department of health and human services; 61761

(4) The department of job and family services' supervision 61762
under its authority under section 5111.01 of the Revised Code to 61763
act as the single state medicaid agency; 61764

(5) The department of developmental disabilities' oversight. 61765

(C) The departments of developmental disabilities and job and 61766
family services shall communicate with and provide training to 61767
county boards regarding medicaid local administrative authority 61768
granted by this section. The communication and training shall 61769
include issues regarding audit protocols and other standards 61770
established by the United States department of health and human 61771
services that the departments determine appropriate for 61772
communication and training. County boards shall participate in the 61773
training. The departments shall assess the county board's 61774
compliance against uniform standards that the departments shall 61775
establish. 61776

(D) A county board may not delegate its medicaid local 61777
administrative authority granted under this section but may 61778
contract with a person or government entity, including a council 61779
of governments, for assistance with its medicaid local 61780
administrative authority. A county board that enters into such a 61781
contract shall notify the director of developmental disabilities. 61782
The notice shall include the tasks and responsibilities that the 61783
contract gives to the person or government entity. The person or 61784
government entity shall comply in full with all requirements to 61785
which the county board is subject regarding the person or 61786
government entity's tasks and responsibilities under the contract. 61787
The county board remains ultimately responsible for the tasks and 61788
responsibilities. 61789

(E) A county board that has medicaid local administrative 61790
authority under this section shall, through the departments of 61791
developmental disabilities and job and family services, reply to, 61792
and cooperate in arranging compliance with, a program or fiscal 61793
audit or program violation exception that a state or federal audit 61794
or review discovers. The department of job and family services 61795
shall timely notify the department of developmental disabilities 61796

and the county board of any adverse findings. After receiving the 61797
notice, the county board, in conjunction with the department of 61798
developmental disabilities, shall cooperate fully with the 61799
department of job and family services and timely prepare and send 61800
to the department a written plan of correction or response to the 61801
adverse findings. The county board is liable for any adverse 61802
findings that result from an action it takes or fails to take in 61803
its implementation of medicaid local administrative authority. 61804

(F) If the department of developmental disabilities or 61805
department of job and family services determines that a county 61806
board's implementation of its medicaid local administrative 61807
authority under this section is deficient, the department that 61808
makes the determination shall require that county board do the 61809
following: 61810

(1) If the deficiency affects the health, safety, or welfare 61811
of an individual with mental retardation or other developmental 61812
disability, correct the deficiency within twenty-four hours; 61813

(2) If the deficiency does not affect the health, safety, or 61814
welfare of an individual with mental retardation or other 61815
developmental disability, receive technical assistance from the 61816
department or submit a plan of correction to the department that 61817
is acceptable to the department within sixty days and correct the 61818
deficiency within the time required by the plan of correction. 61819

Sec. 5126.13. (A) A county board of developmental 61820
disabilities may enter into an agreement with one or more other 61821
county boards of developmental disabilities to establish a 61822
regional council in accordance with Chapter 167. of the Revised 61823
Code. The agreement shall specify the duties and functions to be 61824
performed by the council, which may include any duty or function a 61825
county board is required or authorized to perform under this 61826
chapter. ~~If directed to do so by a resolution adopted by a county~~ 61827

~~board that is a member of a regional council, the department of 61828
developmental disabilities shall make any distributions of money 61829
for that county for the duties or functions performed by the 61830
council pursuant to its agreement that are otherwise required to 61831
be made to the county board under this chapter to the fiscal 61832
officer of the council designated under section 167.04 of the 61833
Revised Code. 61834~~

A county board may also enter into an agreement with one or 61835
more school districts or other political subdivisions to establish 61836
a regional council in accordance with Chapter 167. of the Revised 61837
Code. 61838

(B) On or before the thirtieth day of March, the fiscal 61839
officer of a regional council described in this section shall 61840
report to the department of developmental disabilities, in the 61841
format specified by the department, all income and operating 61842
expenditures of the council for the immediately preceding calendar 61843
year. 61844

Sec. 5126.15. (A) A county board of developmental 61845
disabilities shall provide service and support administration to 61846
each individual three years of age or older who is eligible for 61847
service and support administration if the individual requests, or 61848
a person on the individual's behalf requests, service and support 61849
administration. A board shall provide service and support 61850
administration to each individual receiving home and 61851
community-based services. A board may provide, in accordance with 61852
the service coordination requirements of 34 C.F.R. 303.23, service 61853
and support administration to an individual under three years of 61854
age eligible for early intervention services under 34 C.F.R. part 61855
303. A board may provide service and support administration to an 61856
individual who is not eligible for other services of the board. 61857
Service and support administration shall be provided in accordance 61858

with rules adopted under section 5126.08 of the Revised Code. 61859

A board may provide service and support administration by 61860
directly employing service and support administrators or by 61861
contracting with entities for the performance of service and 61862
support administration. Individuals employed or under contract as 61863
service and support administrators shall not be in the same 61864
collective bargaining unit as employees who perform duties that 61865
are not administrative. 61866

Individuals employed by a board as service and support 61867
administrators shall not be assigned responsibilities for 61868
implementing other services for individuals and shall not be 61869
employed by or serve in a decision-making or policy-making 61870
capacity for any other entity that provides programs or services 61871
to individuals with mental retardation or developmental 61872
disabilities. An individual employed as a conditional status 61873
service and support administrator shall perform the duties of 61874
service and support administration only under the supervision of a 61875
management employee who is a service and support administration 61876
supervisor. 61877

(B) The individuals employed by or under contract with a 61878
board to provide service and support administration shall do all 61879
of the following: 61880

(1) Establish an individual's eligibility for the services of 61881
the county board of developmental disabilities; 61882

(2) Assess individual needs for services; 61883

(3) Develop individual service plans with the active 61884
participation of the individual to be served, other persons 61885
selected by the individual, and, when applicable, the provider 61886
selected by the individual, and recommend the plans for approval 61887
by the department of developmental disabilities when services 61888
included in the plans are funded through medicaid; 61889

(4) Establish budgets for services based on the individual's assessed needs and preferred ways of meeting those needs;	61890
	61891
(5) Assist individuals in making selections from among the providers they have chosen;	61892
	61893
(6) Ensure that services are effectively coordinated and provided by appropriate providers;	61894
	61895
(7) Establish and implement an ongoing system of monitoring the implementation of individual service plans to achieve consistent implementation and the desired outcomes for the individual;	61896
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	61898
	61899
(8) Perform quality assurance reviews as a distinct function of service and support administration;	61900
	61901
(9) Incorporate the results of quality assurance reviews and identified trends and patterns of unusual incidents and major unusual incidents into amendments of an individual's service plan for the purpose of improving and enhancing the quality and appropriateness of services rendered to the individual;	61902
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	61906
(10) Ensure that each individual receiving services has a designated person who is responsible on a continuing basis for providing the individual with representation, advocacy, advice, and assistance related to the day to day coordination of services in accordance with the individual's service plan. The service and support administrator shall give the individual receiving services an opportunity to designate the person to provide daily representation. If the individual declines to make a designation, the administrator shall make the designation. In either case, the individual receiving services may change at any time the person designated to provide daily representation.	61907
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Sec. 5126.20. As used in this section and sections 5126.21 to 5126.29 <u>5126.25</u> of the Revised Code:	61918
	61919

(A) "Service employee" means a person employed by a county board of developmental disabilities in a position which may require ~~evidence of~~ registration under section 5126.25 of the Revised Code but for which a bachelor's degree from an accredited college or university is not required, and includes employees in the positions listed in division (C) of section 5126.22 of the Revised Code.

(B)(1) "Professional employee" means both of the following:

(a) A person employed by a board in a position for which either a bachelor's degree from an accredited college or university or a license or certificate issued under Title XLVII of the Revised Code is a minimum requirement;

(b) A person employed by a board as a conditional status service and support administrator.

(2) "Professional employee" includes employees in the positions listed in division (B) of section 5126.22 of the Revised Code.

(C) "Management employee" means a person employed by a board in a position having supervisory or managerial responsibilities and duties, and includes employees in the positions listed in division (A) of section 5126.22 of the Revised Code.

(D) "Limited contract" means a contract of limited duration which is renewable at the discretion of the superintendent.

~~(E) "Continuing contract" means a contract of employment that was issued prior to June 24, 1988, to a classified employee under which the employee has completed the employee's probationary period and under which the employee retains employment until the employee retires or resigns, is removed pursuant to section 5126.23 of the Revised Code, or is laid off.~~

~~(F)~~ "Supervisory responsibilities and duties" includes the

authority to hire, transfer, suspend, lay off, recall, promote, 61950
discharge, assign, reward, or discipline other employees of the 61951
board; to responsibly direct them; to adjust their grievances; or 61952
to effectively recommend such action, if the exercise of that 61953
authority is not of a merely routine or clerical nature but 61954
requires the use of independent judgment. 61955

~~(G)~~(F) "Managerial responsibilities and duties" includes 61956
formulating policy on behalf of the board, responsibly directing 61957
the implementation of policy, assisting in the preparation for the 61958
conduct of collective negotiations, administering collectively 61959
negotiated agreements, or having a major role in personnel 61960
administration. 61961

~~(H)~~(G) "Investigative agent" means an individual who conducts 61962
investigations under section 5126.313 of the Revised Code. 61963

Sec. 5126.21. As used in this section, "management employee" 61964
does not include the superintendent of a county board of 61965
developmental disabilities. 61966

(A)(1) Each management employee of a county board of 61967
developmental disabilities shall hold a limited contract for a 61968
period of not less than one year and not more than five years, 61969
except that a management employee hired after the beginning of a 61970
program year may be employed under a limited contract expiring at 61971
the end of the program year. The board shall approve all contracts 61972
of employment for management employees that are for a term of more 61973
than one year. A management employee shall receive notice of the 61974
superintendent's intention not to rehire the employee at least 61975
ninety days prior to the expiration of the contract. ~~If the 61976
superintendent fails to notify a management employee, the employee 61977
shall be reemployed under a limited contract of one year at the 61978
same salary plus any authorized salary increases. 61979~~

(2) During the term of a contract a management employee's 61980

salary may be increased, but shall not be reduced unless the 61981
reduction is part of a uniform plan affecting all employees of the 61982
board. 61983

(B) All management employees may be removed, suspended, or 61984
demoted for cause pursuant to section 5126.23 of the Revised Code. 61985

(C) All management employees shall receive employee benefits 61986
~~that shall include sick leave, vacation leave, holiday pay, and~~ 61987
~~such other benefits~~ as are established by the board. Sections 61988
124.38 and 325.19 of the Revised Code do not apply to management 61989
employees. 61990

(D) The superintendent of a county board of developmental 61991
disabilities shall notify all management employees of the board of 61992
their salary no later than thirty days before the first day of the 61993
new contract year. 61994

~~(E) All management employees of a county board of 61995
developmental disabilities who were given continuing contract 61996
status prior to the effective date of this section have continuing 61997
contract status so long as they maintain employment with the 61998
board. 61999~~

~~(F) All management employees who were probationary employees 62000
on the effective date of this section shall, upon completion of 62001
their probationary period, be granted continuing contract status 62002
if retained in employment. 62003~~

~~(G) Each county board of developmental disabilities shall 62004
establish a lay-off policy to be followed if it determines a 62005
reduction in the number of management employees is necessary. 62006~~

Sec. 5126.22. (A) Employees who hold the following positions 62007
in a county board of developmental disabilities are management 62008
employees: 62009

assistant superintendent 62010

director of business	62011
director of personnel	62012
adult services director	62013
workshop director	62014
habilitation manager	62015
director of residential services	62016
principal (director of children services)	62017
program or service supervisor	62018
plant manager	62019
production manager	62020
service and support administration supervisor	62021
investigative agent	62022
confidential employees as defined in section 4117.01 of the Revised Code	62023 62024
positions designated by the director of developmental disabilities as having managerial or supervisory responsibilities and duties	62025 62026 62027
positions designated by the county board in accordance with division (D) of this section.	62028 62029
(B) Employees who hold the following positions in a board are professional employees:	62030 62031
personnel <u>licensed or</u> certified pursuant to Chapter 3319. of the Revised Code	62032 62033
early intervention specialist	62034
physical development specialist	62035
habilitation specialist	62036
work adjustment specialist	62037

placement specialist	62038
vocational evaluator	62039
psychologist	62040
occupational therapist	62041
speech and language pathologist	62042
recreation specialist	62043
behavior management specialist	62044
physical therapist	62045
supportive home services specialist	62046
licensed practical nurse or registered nurse	62047
rehabilitation counselor	62048
doctor of medicine and surgery or of osteopathic medicine and surgery	62049 62050
dentist	62051
service and support administrator	62052
conditional status service and support administrator	62053
social worker	62054
any position that is not a management position and for which the standards for certification established by the director of developmental disabilities under section 5126.25 of the Revised Code require a bachelor's or higher degree	62055 62056 62057 62058
professional positions designated by the director	62059
professional positions designated by the county board in accordance with division (D) of this section.	62060 62061
(C) Employees who hold positions in a board that are neither management positions nor professional positions are service employees. Service employee positions include:	62062 62063 62064

workshop specialist	62065
workshop specialist assistant	62066
contract procurement specialist	62067
community employment specialist	62068
any assistant to a professional employee certified to	62069
provide, or supervise the provision of, adult services or service	62070
and support administration	62071
service positions designated by the director	62072
service positions designated by a county board in accordance	62073
with division (D) of this section.	62074
(D) A county board may designate a position only if the	62075
position does not include directly providing, or supervising	62076
employees who directly provide, service or instruction to	62077
individuals with mental retardation or developmental disabilities.	62078
(E) If a county board desires to have a position established	62079
that is not specifically listed in this section that includes	62080
directly providing, or supervising employees who directly provide,	62081
services or instruction to individuals with mental retardation or	62082
developmental disabilities, the board shall submit to the director	62083
a written description of the position and request that the	62084
director designate the position as a management, professional, or	62085
service position under this section. The director shall consider	62086
each request submitted under this division and respond within	62087
thirty days. If the director approves the request, the director	62088
shall designate the position as a management, professional, or	62089
service position.	62090
(F) A county board shall not terminate its employment of any	62091
management, professional, or service employee solely because a	62092
position is added to or eliminated from those positions listed in	62093
this section or because a position is designated or no longer	62094

designated by the director or a county board. 62095

Sec. 5126.25. (A) The director of developmental disabilities 62096
shall adopt rules ~~in accordance with Chapter 119. of the Revised~~ 62097
~~Code under division (C) of this section~~ establishing uniform 62098
standards and procedures for the certification and registration of 62099
persons ~~for employment by county boards of developmental~~ 62100
~~disabilities as superintendents, management employees, and~~ 62101
~~professional employees and uniform standards and procedures for~~ 62102
~~the registration of persons for employment by county boards as~~ 62103
~~registered service employees. As part of the rules, the director~~ 62104
~~may establish continuing education and professional training~~ 62105
~~requirements for renewal of certificates and evidence of~~ 62106
~~registration and shall establish such requirements for renewal of~~ 62107
~~an investigative agent certificate. In the rules, the director~~ 62108
~~shall establish certification standards for employment in the~~ 62109
~~position of investigative agent that require an individual to have~~ 62110
~~or obtain no less than an associate degree from an accredited~~ 62111
~~college or university or have or obtain comparable experience or~~ 62112
~~training. The director shall not adopt rules that require any~~ 62113
~~service employee to have or obtain a bachelor's or higher degree.~~ 62114

~~The director shall adopt the rules in a manner that provides~~ 62115
~~for the issuance of certificates and evidence of registration~~ 62116
~~according to categories, levels, and grades. The rules shall~~ 62117
~~describe each category, level, and grade.~~ 62118

~~The rules adopted under this division shall apply to persons~~ 62119
~~employed or seeking employment in a position that includes~~ 62120
~~directly providing, or supervising persons who directly provide,~~ 62121
~~services or instruction to or on behalf of individuals with mental~~ 62122
~~retardation or developmental disabilities, except that the rules~~ 62123
~~shall not apply to persons who hold a valid license issued under~~ 62124
~~Chapter 3319. of the Revised Code and perform no duties other than~~ 62125

~~teaching or supervision of a teaching program or persons who hold a valid license or certificate issued under Title XLVII of the Revised Code and perform only those duties governed by the license or certificate. The rules shall specify the positions that require certification or registration. The rules shall specify that the position of investigative agent requires certification, other than the persons described in division (I) of this section, who are seeking employment with or are employed by either of the following:~~

(1) A county board of developmental disabilities;

(2) An entity that contracts with a county board to operate programs and services for individuals with mental retardation or developmental disabilities.

(B) No person shall be employed in a position for which certification or registration is required pursuant to the rules adopted under this section without the certification or registration that is required for that position. The person shall not be employed or shall not continue to be employed if the required certification or registration is denied, revoked, or not renewed.

~~(B)(C) The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for approval of courses of study to prepare persons to meet certification requirements. The director shall approve courses of study meeting the standards and provide for the inspection of the courses to ensure the maintenance of satisfactory training procedures. The director shall approve courses of study only if given by a state university or college as defined in section 3345.32 of the Revised Code, a state university or college of another state, or an institution that has received a certificate of authorization to confer degrees from the board of regents pursuant to Chapter 1713. of the Revised Code or from a comparable~~

agency of another state as the director considers necessary to 62158
implement and administer this section, including rules 62159
establishing all of the following: 62160

(1) Positions of employment that are subject to this section 62161
and, for each position, whether a person must receive 62162
certification or receive registration to be employed in that 62163
position; 62164

(2) Requirements that must be met to receive the 62165
certification or registration required to be employed in a 62166
particular position, including standards regarding education, 62167
specialized training, and experience, taking into account the 62168
needs of individuals with mental retardation or developmental 62169
disabilities and the specialized techniques needed to serve them, 62170
except that the rules shall not require a person designated as a 62171
service employee under section 5126.22 of the Revised Code to have 62172
or obtain a bachelor's or higher degree; 62173

(3) Procedures to be followed in applying for initial 62174
certification or registration and for renewing the certification 62175
or registration. 62176

(4) Requirements that must be met for renewal of 62177
certification or registration, which may include continuing 62178
education and professional training requirements; 62179

(5) Subject to section 5126.23 of the Revised Code, grounds 62180
for which certification or registration may be denied, suspended, 62181
or revoked and procedures for appealing the denial, suspension, or 62182
revocation. 62183

~~(C)(D) Each applicant for a certificate for employment or~~ 62184
~~evidence of person seeking certification or registration for~~ 62185
~~employment by a county board shall apply to the department of~~ 62186
~~developmental disabilities on forms that the director of the~~ 62187
~~department shall prescribe and provide. The application shall be~~ 62188

accompanied by the application fee in the manner established in 62189
rules adopted under this section. 62190

~~(D) The director shall issue a certificate for employment to 62191
each applicant who meets the standards for certification 62192
established under this section and shall issue evidence of 62193
registration for employment to each applicant who meets the 62194
standards for registration established under this section. Each 62195
certificate or evidence of registration shall state the category, 62196
level, and grade for which it is issued. 62197~~

~~The director shall issue, renew, deny, suspend, or revoke 62198
certificates and evidence of registration in accordance with rules 62199
adopted under this section. The director shall deny, suspend, or 62200
revoke a certificate or evidence of registration if the director 62201
finds, pursuant to an adjudication conducted in accordance with 62202
Chapter 119. of the Revised Code, that the applicant for or holder 62203
of the certificate or evidence of registration is guilty of 62204
intemperate, immoral, or other conduct unbecoming to the 62205
applicant's or holder's position, or is guilty of incompetence or 62206
negligence within the scope of the applicant's or holder's duties. 62207
The director shall deny or revoke a certificate or evidence of 62208
registration if the director finds, pursuant to an adjudication 62209
conducted in accordance with Chapter 119. of the Revised Code, 62210
that the applicant for or holder of the certificate or evidence of 62211
registration has been convicted of or pleaded guilty to any of the 62212
offenses described in division (E) of section 5126.28 of the 62213
Revised Code, unless the individual meets standards for 62214
rehabilitation that the director establishes in the rules adopted 62215
under that section. Evidence supporting such allegations shall be 62216
presented to the director in writing and the director shall 62217
provide prompt notice of the allegations to the person who is the 62218
subject of the allegations. A denial, suspension, or revocation 62219
may be appealed in accordance with procedures the director shall 62220~~

~~establish in the rules adopted under this section.~~ 62221

(E)(1) The superintendent of each county board is responsible for taking all actions regarding certification and registration of employees, other than the position of superintendent. For the position of superintendent, the director of developmental disabilities is responsible for taking all such actions. 62222
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Actions that may be taken under this division include issuing, renewing, denying, suspending, and revoking certification and registration. All actions shall be taken in accordance with the rules adopted under this section. 62227
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A person subject to the denial, suspension, or revocation of certification or registration may appeal the decision. The appeal shall be made in accordance with the rules adopted under this section. 62231
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(F) ~~A person holding a~~ with valid certificate certification or registration under this section on the effective date of any rules adopted under this section that increase the standards applicable to the certification standards or registration shall have such period as the rules prescribe, but not less than one year after the effective date of the rules, to meet the new certification or registration standards. 62235
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~~A person who is registered under this section on the effective date of any rule that changes the standards adopted under this section shall have such period as the rules prescribe, but not less than one year, to meet the new registration standards.~~ 62242
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(2) ~~If an applicant for a certificate for employment has not completed the courses of instruction necessary to meet the department's standards for certification, the department shall inform the applicant of the courses the applicant must successfully complete to meet the standards and shall specify the~~ 62247
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~~time within which the applicant must complete the courses. The department shall grant the applicant at least one year to complete the courses and shall not require the applicant to complete more than four courses in any one year. The applicant is not subject to any changes regarding the courses required for certification that are made after the department informs the applicant of the courses the applicant must complete, unless the applicant does not successfully complete the courses within the time specified by the department.~~

~~(F)~~(G) A person who holds a certificate with valid certification or evidence of registration, other than one designated as temporary, is qualified to be employed according to that ~~certificate~~ certification or evidence of registration by any county board or entity contracting with a county board.

~~(G)~~(H) The director shall monitor county boards to ensure that their employees who must be certified or registered are ~~appropriately certified or registered and~~ and the employees of their contracting entities have the applicable certification or registration required under this section and that the employees are performing only those functions they are authorized to perform under their certificate the certification or evidence of registration.

~~(H)~~ A county board superintendent or the superintendent's designee may certify to the director that county board employees who are required to meet continuing education or professional training requirements as a condition of renewal of certificates or evidence of registration have met the requirements. The superintendent of each county board or the superintendent's designee shall maintain in appropriate personnel files evidence acceptable to the director that the employees have met the requirements ~~and permit. On request,~~ representatives of the department of developmental disabilities shall be given access to

the evidence ~~on request.~~ 62284

(I) ~~All fees collected pursuant to this section shall be~~ 62285
~~deposited in the state treasury to the credit of the program fee~~ 62286
~~fund created under section 5123.033 of the Revised Code.~~ 62287

~~(J) Employees of entities that contract with county boards of~~ 62288
~~developmental disabilities to operate programs and services for~~ 62289
~~individuals with mental retardation and developmental disabilities~~ 62290
~~are subject to the certification and registration requirements~~ 62291
~~established under section 5123.082 of the Revised Code~~ The 62292
certification and registration requirements of this section and 62293
the rules adopted under it do not apply to either of the 62294
following: 62295

(1) A person who holds a valid license issued or certificate 62296
issued under Chapter 3319. of the Revised Code and performs no 62297
duties other than teaching or supervision of a teaching program; 62298

(2) A person who holds a valid license or certificate issued 62299
under Title XLVII of the Revised Code and performs only those 62300
duties governed by the license or certificate. 62301

Sec. 5126.251. On receipt of a notice pursuant to section 62302
3123.43 of the Revised Code, the director of developmental 62303
disabilities or the superintendent of a county board of 62304
developmental disabilities shall comply with sections 3123.41 to 62305
3123.50 of the Revised Code and any applicable rules adopted under 62306
section 3123.63 of the Revised Code with respect to ~~a certificate~~ 62307
a person's certification or ~~evidence of registration issued~~ 62308
~~pursuant to this chapter~~ under section 5126.25 of the Revised 62309
Code. 62310

Sec. 5126.51. As used in sections 5126.51 to 5126.62 of the 62311
Revised Code: 62312

(A) "Develop" or "development," in contexts not referring to 62313

developmental disabilities, means construction or rehabilitation. 62314

(B) "Eligible lending institution" means a financial 62315
institution that meets all of the following requirements: 62316

(1) Is eligible to make commercial loans; 62317

(2) Has an office located within the territorial limits of 62318
the county; 62319

(3) Is an institution into which the county's investing 62320
authority may deposit the public moneys of the county; 62321

(4) Holds itself out as participating in the residential 62322
facility linked deposit program. 62323

(C) "Eligible organization" means ~~either of the following:~~ 62324

~~(1) A a nonprofit corporation that has as its primary 62325
activity the development or operation of a residential facility;~~ 62326

~~(2) A nonprofit corporation certified under section 5123.192 62327
of the Revised Code. 62328~~

(D) "Investing authority" has the same meaning as in section 62329
135.31 of the Revised Code. 62330

(E) "Residential facility" has the same meaning as in section 62331
5123.19 of the Revised Code ~~and also includes a residence where a 62332
nonprofit corporation certified under section 5123.192 of the 62333
Revised Code provides or proposes to provide supported living for 62334
individuals with mental retardation or developmental disabilities. 62335~~

(F) "Residential facility linked deposit program" means the 62336
linked deposit program provided for in sections 5126.51 to 5126.62 62337
of the Revised Code. A "residential facility linked deposit" is a 62338
deposit of public moneys of the county under, and for the purposes 62339
of, the residential facility linked deposit program. A 62340
"residential facility linked deposit loan" is a loan under, and 62341
for the purposes of, the residential facility linked deposit 62342
program. 62343

Sec. 5139.41. The appropriation made to the department of youth services for care and custody of felony delinquents shall be expended in accordance with the following procedure that the department shall use for each year of a biennium. The procedure shall be consistent with sections 5139.41 to 5139.43 of the Revised Code and shall be developed in accordance with the following guidelines:

(A) The line item appropriation for the care and custody of felony delinquents shall provide funding for operational costs for the following:

(1) Institutions and the diagnosis, care, or treatment of felony delinquents at facilities pursuant to contracts entered into under section 5139.08 of the Revised Code;

(2) Community corrections facilities constructed, reconstructed, improved, or financed as described in section 5139.36 of the Revised Code for the purpose of providing alternative placement and services for felony delinquents who have been diverted from care and custody in institutions;

(3) County juvenile courts that administer programs and services for prevention, early intervention, diversion, treatment, and rehabilitation services and programs that are provided for alleged or adjudicated unruly or delinquent children or for children who are at risk of becoming unruly or delinquent children;

(4) Administrative expenses the department incurs in connection with the felony delinquent care and custody programs described in section 5139.43 of the Revised Code.

(B) From the appropriated line item for the care and custody of felony delinquents, the department, with the advice of the RECLAIM advisory committee established under section 5139.44 of

the Revised Code, shall allocate annual operational funds for 62374
county juvenile programs, institutional care and custody, 62375
community corrections facilities care and custody, and 62376
administrative expenses incurred by the department associated with 62377
felony delinquent care and custody programs. The department, with 62378
the advice of the RECLAIM advisory committee, shall adjust these 62379
allocations, when modifications to this line item are made by 62380
legislative or executive action. 62381

(C) The department shall divide county juvenile program 62382
allocations among county juvenile courts that administer programs 62383
and services for prevention, early intervention, diversion, 62384
treatment, and rehabilitation that are provided for alleged or 62385
adjudicated unruly or delinquent children or for children who are 62386
at risk of becoming unruly or delinquent children. The department 62387
shall base funding on the county's previous year's ratio of the 62388
department's institutional and community correctional facilities 62389
commitments to that county's ~~four-year~~ average of felony 62390
adjudications, as specified in the following formula: 62391

(1) The department shall give to each county a proportional 62392
allocation of commitment credits. The proportional allocation of 62393
commitment credits shall be calculated by the following 62394
procedures: 62395

(a) The department shall determine for each county and for 62396
the state a ~~four-year~~ an average of felony adjudications. 62397
Beginning July 1, 2012, the average shall include felony 62398
adjudications for fiscal year 2007 and for each subsequent fiscal 62399
year through fiscal year 2016. Beginning July 1, 2017, the most 62400
recent felony adjudication data shall be included and the oldest 62401
fiscal year data shall be removed so that a ten-year average of 62402
felony adjudication data will be maintained. 62403

(b) The department shall determine for each county and for 62404
the state the number of charged bed days, for both the department 62405

and community correctional facilities, from the previous year. 62406

(c) The department shall divide the statewide total number of 62407
charged bed days by the statewide total number of felony 62408
adjudications, which quotient shall then be multiplied by a factor 62409
determined by the department. 62410

(d) The department shall calculate the county's allocation of 62411
credits by multiplying the number of adjudications for each court 62412
by the result determined pursuant to division (C)(1)(c) of this 62413
section. 62414

(2) The department shall subtract from the allocation 62415
determined pursuant to division (C)(1) of this section a credit 62416
for every chargeable bed day a youth stays in a department 62417
institution and two-thirds of credit for every chargeable bed day 62418
a youth stays in a community correctional facility, except for 62419
public safety beds. At the end of the year, the department shall 62420
divide the amount of remaining credits of that county's allocation 62421
by the total number of remaining credits to all counties, to 62422
determine the county's percentage, which shall then be applied to 62423
the total county allocation to determine the county's payment for 62424
the fiscal year. 62425

(3) The department shall pay counties three times during the 62426
fiscal year to allow for credit reporting and audit adjustments, 62427
and modifications to the appropriated line item for the care and 62428
custody of felony delinquents, as described in this section. The 62429
department shall pay fifty per cent of the payment by the 62430
fifteenth of July of each fiscal year, twenty-five per cent by the 62431
fifteenth of January of that fiscal year, and twenty-five per cent 62432
of the payment by the fifteenth of June of that fiscal year. 62433

~~(D) In fiscal year 2004, the payment of county juvenile 62434
programs shall be based on the following procedure: 62435~~

~~(1) The department shall divide the funding earned by each 62436~~

~~court in fiscal year 2003 by the aggregate funding of all courts, 62437
resulting in a percentage. 62438~~

~~(2) The department shall apply the percentage determined 62439
under division (D)(1) of this section to the total county juvenile 62440
program allocation for fiscal year 2004 to determine each court's 62441
total payment. 62442~~

~~(3) The department shall make payments in accordance with the 62443
schedule established in division (C)(3) of this section. 62444~~

Sec. 5139.43. (A) The department of youth services shall 62445
operate a felony delinquent care and custody program that shall be 62446
operated in accordance with the formula developed pursuant to 62447
section 5139.41 of the Revised Code, subject to the conditions 62448
specified in this section. 62449

(B)(1) Each juvenile court shall use the moneys disbursed to 62450
it by the department of youth services pursuant to division (B) of 62451
section 5139.41 of the Revised Code in accordance with the 62452
applicable provisions of division (B)(2) of this section and shall 62453
transmit the moneys to the county treasurer for deposit in 62454
accordance with this division. The county treasurer shall create 62455
in the county treasury a fund that shall be known as the felony 62456
delinquent care and custody fund and shall deposit in that fund 62457
the moneys disbursed to the juvenile court pursuant to division 62458
(B) of section 5139.41 of the Revised Code. The county treasurer 62459
also shall deposit into that fund the state subsidy funds granted 62460
to the county pursuant to section 5139.34 of the Revised Code. The 62461
moneys disbursed to the juvenile court pursuant to division (B) of 62462
section 5139.41 of the Revised Code and deposited pursuant to this 62463
division in the felony delinquent care and custody fund shall not 62464
be commingled with any other county funds except state subsidy 62465
funds granted to the county pursuant to section 5139.34 of the 62466
Revised Code; shall not be used for any capital construction 62467

projects; upon an order of the juvenile court and subject to 62468
appropriation by the board of county commissioners, shall be 62469
disbursed to the juvenile court for use in accordance with the 62470
applicable provisions of division (B)(2) of this section; shall 62471
not revert to the county general fund at the end of any fiscal 62472
year; and shall carry over in the felony delinquent care and 62473
custody fund from the end of any fiscal year to the next fiscal 62474
year. The maximum balance carry-over at the end of each respective 62475
fiscal year in the felony delinquent care and custody fund in any 62476
county from funds allocated to the county pursuant to sections 62477
5139.34 and 5139.41 of the Revised Code in the previous fiscal 62478
year shall not exceed an amount to be calculated as provided in 62479
the formula set forth in this division, unless that county has 62480
applied for and been granted an exemption by the director of youth 62481
services. Beginning June 30, 2008, the maximum balance carry-over 62482
at the end of each respective fiscal year shall be determined by 62483
the following formula: for fiscal year 2008, the maximum balance 62484
carry-over shall be one hundred per cent of the allocation for 62485
fiscal year 2007, to be applied in determining the fiscal year 62486
2009 allocation; for fiscal year 2009, it shall be fifty per cent 62487
of the allocation for fiscal year 2008, to be applied in 62488
determining the fiscal year 2010 allocation; for fiscal year 2010, 62489
it shall be twenty-five per cent of the allocation for fiscal year 62490
2009, to be applied in determining the fiscal year 2011 62491
allocation; and for each fiscal year subsequent to fiscal year 62492
2010, it shall be twenty-five per cent of the allocation for the 62493
immediately preceding fiscal year, to be applied in determining 62494
the allocation for the next immediate fiscal year. The department 62495
shall withhold from future payments to a county an amount equal to 62496
any moneys in the felony delinquent care and custody fund of the 62497
county that exceed the total maximum balance carry-over that 62498
applies for that county for the fiscal year in which the payments 62499
are being made and shall reallocate the withheld amount. The 62500

department shall adopt rules for the withholding and reallocation 62501
of moneys disbursed under sections 5139.34 and 5139.41 of the 62502
Revised Code and for the criteria and process for a county to 62503
obtain an exemption from the withholding requirement. The moneys 62504
disbursed to the juvenile court pursuant to division (B) of 62505
section 5139.41 of the Revised Code and deposited pursuant to this 62506
division in the felony delinquent care and custody fund shall be 62507
in addition to, and shall not be used to reduce, any usual annual 62508
increase in county funding that the juvenile court is eligible to 62509
receive or the current level of county funding of the juvenile 62510
court and of any programs or services for delinquent children, 62511
unruly children, or juvenile traffic offenders. 62512

(2)(a) A county and the juvenile court that serves the county 62513
shall use the moneys in its felony delinquent care and custody 62514
fund in accordance with rules that the department of youth 62515
services adopts pursuant to division (D) of section 5139.04 of the 62516
Revised Code and as follows: 62517

(i) The moneys in the fund that represent state subsidy funds 62518
granted to the county pursuant to section 5139.34 of the Revised 62519
Code shall be used to aid in the support of prevention, early 62520
intervention, diversion, treatment, and rehabilitation programs 62521
that are provided for alleged or adjudicated unruly children or 62522
delinquent children or for children who are at risk of becoming 62523
unruly children or delinquent children. The county shall not use 62524
for capital improvements more than fifteen per cent of the moneys 62525
in the fund that represent the applicable annual grant of those 62526
state subsidy funds. 62527

(ii) The moneys in the fund that were disbursed to the 62528
juvenile court pursuant to division (B) of section 5139.41 of the 62529
Revised Code and deposited pursuant to division (B)(1) of this 62530
section in the fund shall be used to provide programs and services 62531
for the training, treatment, or rehabilitation of felony 62532

delinquents that are alternatives to their commitment to the 62533
department, including, but not limited to, community residential 62534
programs, day treatment centers, services within the home, and 62535
electronic monitoring, and shall be used in connection with 62536
training, treatment, rehabilitation, early intervention, or other 62537
programs or services for any delinquent child, unruly child, or 62538
juvenile traffic offender who is under the jurisdiction of the 62539
juvenile court. 62540

The fund also may be used for prevention, early intervention, 62541
diversion, treatment, and rehabilitation programs that are 62542
provided for alleged or adjudicated unruly children, delinquent 62543
children, or juvenile traffic offenders or for children who are at 62544
risk of becoming unruly children, delinquent children, or juvenile 62545
traffic offenders. Consistent with division (B)(1) of this 62546
section, a county and the juvenile court of a county shall not use 62547
any of those moneys for capital construction projects. 62548

(iii) Moneys in the fund shall not be used to support 62549
programs or services that do not comply with federal juvenile 62550
justice and delinquency prevention core requirements or to support 62551
programs or services that research has shown to be ineffective. 62552
~~Moneys in the fund shall be prioritized to research-supported~~ 62553
Research-supported, outcome-based programs and services, to the 62554
extent they are available, shall be encouraged. 62555

(iv) The county and the juvenile court that serves the county 62556
may use moneys in the fund to provide out-of-home placement of 62557
children only in detention centers, community rehabilitation 62558
centers, or community corrections facilities approved by the 62559
department pursuant to standards adopted by the department, 62560
licensed by an authorized state agency, or accredited by the 62561
American correctional association or another national organization 62562
recognized by the department. 62563

(b) Each juvenile court shall comply with division (B)(3)(d) 62564

of this section as implemented by the department. If a juvenile court fails to comply with division (B)(3)(d) of this section, the department shall not be required to make any disbursements in accordance with division (C) ~~or (D)~~ of section 5139.41 or division (C)(2) of section 5139.34 of the Revised Code.

(3) In accordance with rules adopted by the department pursuant to division (D) of section 5139.04 of the Revised Code, each juvenile court and the county served by that juvenile court shall do all of the following that apply:

(a) The juvenile court shall prepare an annual grant agreement and application for funding that satisfies the requirements of this section and section 5139.34 of the Revised Code and that pertains to the use, upon an order of the juvenile court and subject to appropriation by the board of county commissioners, of the moneys in its felony delinquent care and custody fund for specified programs, care, and services as described in division (B)(2)(a) of this section, shall submit that agreement and application to the county family and children first council, the regional family and children first council, or the local intersystem services to children cluster as described in sections 121.37 and 121.38 of the Revised Code, whichever is applicable, and shall file that agreement and application with the department for its approval. The annual grant agreement and application for funding shall include a method of ensuring equal access for minority youth to the programs, care, and services specified in it.

The department may approve an annual grant agreement and application for funding only if the juvenile court involved has complied with the preparation, submission, and filing requirements described in division (B)(3)(a) of this section. If the juvenile court complies with those requirements and the department approves that agreement and application, the juvenile court and the county

served by the juvenile court may expend the state subsidy funds 62597
granted to the county pursuant to section 5139.34 of the Revised 62598
Code only in accordance with division (B)(2)(a) of this section, 62599
the rules pertaining to state subsidy funds that the department 62600
adopts pursuant to division (D) of section 5139.04 of the Revised 62601
Code, and the approved agreement and application. 62602

(b) By the thirty-first day of August of each year, the 62603
juvenile court shall file with the department a report that 62604
contains all of the statistical and other information for each 62605
month of the prior state fiscal year. If the juvenile court fails 62606
to file the report required by division (B)(3)(b) of this section 62607
by the thirty-first day of August of any year, the department 62608
shall not disburse any payment of state subsidy funds to which the 62609
county otherwise is entitled pursuant to section 5139.34 of the 62610
Revised Code and shall not disburse pursuant to division (B) of 62611
section 5139.41 of the Revised Code the applicable allocation 62612
until the juvenile court fully complies with division (B)(3)(b) of 62613
this section. 62614

(c) If the department requires the juvenile court to prepare 62615
monthly statistical reports and to submit the reports on forms 62616
provided by the department, the juvenile court shall file those 62617
reports with the department on the forms so provided. If the 62618
juvenile court fails to prepare and submit those monthly 62619
statistical reports within the department's timelines, the 62620
department shall not disburse any payment of state subsidy funds 62621
to which the county otherwise is entitled pursuant to section 62622
5139.34 of the Revised Code and shall not disburse pursuant to 62623
division (B) of section 5139.41 of the Revised Code the applicable 62624
allocation until the juvenile court fully complies with division 62625
(B)(3)(c) of this section. If the juvenile court fails to prepare 62626
and submit those monthly statistical reports within one hundred 62627
eighty days of the date the department establishes for their 62628

submission, the department shall not disburse any payment of state 62629
subsidy funds to which the county otherwise is entitled pursuant 62630
to section 5139.34 of the Revised Code and shall not disburse 62631
pursuant to division (B) of section 5139.41 of the Revised Code 62632
the applicable allocation, and the state subsidy funds and the 62633
remainder of the applicable allocation shall revert to the 62634
department. If a juvenile court states in a monthly statistical 62635
report that the juvenile court adjudicated within a state fiscal 62636
year five hundred or more children to be delinquent children for 62637
committing acts that would be felonies if committed by adults and 62638
if the department determines that the data in the report may be 62639
inaccurate, the juvenile court shall have an independent auditor 62640
or other qualified entity certify the accuracy of the data on a 62641
date determined by the department. 62642

(d) If the department requires the juvenile court and the 62643
county to participate in a fiscal monitoring program or another 62644
monitoring program that is conducted by the department to ensure 62645
compliance by the juvenile court and the county with division (B) 62646
of this section, the juvenile court and the county shall 62647
participate in the program and fully comply with any guidelines 62648
for the performance of audits adopted by the department pursuant 62649
to that program and all requests made by the department pursuant 62650
to that program for information necessary to reconcile fiscal 62651
accounting. If an audit that is performed pursuant to a fiscal 62652
monitoring program or another monitoring program described in this 62653
division determines that the juvenile court or the county used 62654
moneys in the county's felony delinquent care and custody fund for 62655
expenses that are not authorized under division (B) of this 62656
section, within forty-five days after the department notifies the 62657
county of the unauthorized expenditures, the county either shall 62658
repay the amount of the unauthorized expenditures from the county 62659
general revenue fund to the state's general revenue fund or shall 62660
file a written appeal with the department. If an appeal is timely 62661

filed, the director of the department shall render a decision on 62662
the appeal and shall notify the appellant county or its juvenile 62663
court of that decision within forty-five days after the date that 62664
the appeal is filed. If the director denies an appeal, the 62665
county's fiscal agent shall repay the amount of the unauthorized 62666
expenditures from the county general revenue fund to the state's 62667
general revenue fund within thirty days after receiving the 62668
director's notification of the appeal decision. 62669

(C) The determination of which county a reduction of the care 62670
and custody allocation will be charged against for a particular 62671
youth shall be made as outlined below for all youths who do not 62672
qualify as public safety beds. The determination of which county a 62673
reduction of the care and custody allocation will be charged 62674
against shall be made as follows until each youth is released: 62675

(1) In the event of a commitment, the reduction shall be 62676
charged against the committing county. 62677

(2) In the event of a recommitment, the reduction shall be 62678
charged against the original committing county until the 62679
expiration of the minimum period of institutionalization under the 62680
original order of commitment or until the date on which the youth 62681
is admitted to the department of youth services pursuant to the 62682
order of recommitment, whichever is later. Reductions of the 62683
allocation shall be charged against the county that recommitted 62684
the youth after the minimum expiration date of the original 62685
commitment. 62686

(3) In the event of a revocation of a release on parole, the 62687
reduction shall be charged against the county that revokes the 62688
youth's parole. 62689

(D) A juvenile court is not precluded by its allocation 62690
amount for the care and custody of felony delinquents from 62691
committing a felony delinquent to the department of youth services 62692

for care and custody in an institution or a community corrections 62693
facility when the juvenile court determines that the commitment is 62694
appropriate. 62695

Sec. 5139.511. Before a youth is released from a secure 62696
facility under the control of the department of youth services, 62697
the department of youth services shall attempt to verify the 62698
youth's identification and social security number. If the 62699
department is able to verify the youth's identity with a verified 62700
birth certificate and social security number, the department shall 62701
issue an identification card that the youth may present to the 62702
registrar or deputy registrar of motor vehicles. If the department 62703
is not able to verify the youth's identity with both a verified 62704
birth certificate and social security number, the youth shall not 62705
receive an identification card under this section. 62706

Sec. 5149.311. (A) The department of rehabilitation and 62707
correction shall establish and administer the probation 62708
improvement grant and the probation incentive grant for ~~court of~~ 62709
~~common pleas~~ probation departments that supervise ~~felony~~ offenders 62710
sentenced by courts of common pleas or municipal courts. 62711

(B)(1) The probation improvement grant shall provide funding 62712
to ~~court of common pleas~~ probation departments to adopt policies 62713
and practices based on the latest research on how to reduce the 62714
number of ~~felony~~ offenders on probation supervision who violate 62715
the conditions of their supervision. 62716

(2) The department shall adopt rules for the distribution of 62717
the probation improvement grant, including the formula for the 62718
allocation of the subsidy based on the number of ~~felony~~ offenders 62719
placed on probation annually in each jurisdiction. 62720

(C)(1) The probation incentive grant shall provide a 62721
performance-based level of funding to ~~court of common pleas~~ 62722

probation departments that are successful in reducing the number 62723
of felony offenders on probation supervision whose terms of 62724
supervision are revoked. 62725

(2) The department shall calculate annually any cost savings 62726
realized by the state from a reduction in the percentage of people 62727
who are incarcerated because their terms of supervised probation 62728
were revoked. The cost savings estimate shall be calculated for 62729
each ~~county~~ jurisdiction served by the probation department 62730
eligible for a grant under this section and be based on the 62731
difference from fiscal year 2010 and the fiscal year under 62732
examination. 62733

(3) The department shall adopt rules that specify the subsidy 62734
amount to be appropriated to court ~~of common pleas~~ probation 62735
departments that successfully reduce the percentage of people on 62736
probation who are incarcerated because their terms of supervision 62737
are revoked. 62738

(D) The following stipulations apply to both the probation 62739
improvement grant and the probation incentive grant: 62740

(1) In order to be eligible for the probation improvement 62741
grant and the probation incentive grant, courts of common pleas 62742
must satisfy all requirements under sections 2301.27 and 2301.30 62743
of the Revised Code ~~and, except.~~ Except for sentencing decisions 62744
made by a court when use of the risk assessment tool is 62745
discretionary, in order to be eligible for the probation 62746
improvement grant and the probation incentive grant, a court must 62747
utilize the single validated risk assessment tool selected by the 62748
department of rehabilitation and correction under section 5120.114 62749
of the Revised Code. 62750

(2) The department may deny a subsidy under this section to 62751
any applicant if the applicant fails to comply with the terms of 62752
any agreement entered into pursuant to any of the provisions of 62753

this section. 62754

(3) The department shall evaluate or provide for the 62755
evaluation of the policies, practices, and programs the court of 62756
~~common pleas~~ probation departments utilize with the programs of 62757
subsidies established under this section and establish means of 62758
measuring their effectiveness. 62759

(4) The department shall specify the policies, practices, and 62760
programs for which court of ~~common pleas~~ probation departments may 62761
use the program subsidy and shall establish minimum standards of 62762
quality and efficiency that recipients of the subsidy must follow. 62763
The department shall give priority to supporting evidence-based 62764
policies and practices, as defined by the department. 62765

Sec. 5153.18. (A) The public children services agency shall 62766
have the capacity possessed by natural persons to institute 62767
proceedings in any court and shall have a substantial right, as 62768
defined in section 2505.02 of the Revised Code, in protecting 62769
children alleged to be abused, neglected, or dependent children 62770
and in achieving permanency for a child committed to the agency's 62771
custody in any proceeding in a court of appeals. 62772

(B) When appointed by the probate court exercising 62773
jurisdiction in adoption proceedings, the executive director may 62774
act as next friend of any child and perform the duties of such 62775
next friend. 62776

(C) When appointed by the probate court, in lieu of a 62777
guardian, in accordance with section 2111.05 of the Revised Code: 62778

(1) The executive director may act as trustee of the estate 62779
of any ward, provided such an estate does not exceed one thousand 62780
dollars in value. 62781

(2) The executive director may also act as trustee, on behalf 62782
of any ward, of periodic payments of not more than twenty-five 62783

dollars per week of which such ward is entitled as a claimant 62784
pursuant to the terms of any insurance policy, annuity, pension, 62785
benefit, or allowance, governmental or private. 62786

(3) Such director shall administer all trusteeships in 62787
accordance with the laws relating to fiduciaries. 62788

The funds of any such trusteeship shall not be mingled with 62789
other moneys of the agency or of the county. The cost of any such 62790
trusteeship shall be paid out of the funds of the trust, but no 62791
fee shall be allowed to the executive director as such trustee. At 62792
least once a year, or more often if required by the probate court, 62793
the executive director shall make a complete report and accounting 62794
to the agency as to the disposition of all trust funds 62795
administered by the executive director during the year. 62796

Sec. 5155.14. At the request of the superintendent or 62797
administrator of the county home, the board of county 62798
commissioners or operator shall set apart from the county home 62799
fund, a reserve fund not to exceed ~~four hundred~~ five thousand 62800
dollars at any time, which, upon the order of the board or 62801
operator shall be paid to the superintendent or administrator and 62802
expended as needed for emergency supplies and expenses. The 62803
superintendent or administrator shall keep an accurate account of 62804
the reserve fund, in a book to be provided at the expense of the 62805
county for that purpose, and all expenditures from it shall be 62806
audited by the board or operator. The county home fund shall be 62807
reimbursed by the superintendent or administrator, in full, for 62808
any items expended by the superintendent or administrator from the 62809
reserve fund, which items are not allowed by the board or 62810
operator. When, and as often as such amount is entirely disbursed, 62811
on the order of the board or operator, the county auditor shall 62812
pay to the superintendent or administrator the amount so 62813
appropriated. 62814

~~Sec. 5501.04. The following divisions are hereby established~~ 62815
~~in the department of transportation:~~ 62816

~~(A) The division of business services;~~ 62817
~~(B) The division of engineering policy;~~ 62818
~~(C) The division of finance;~~ 62819
~~(D) The division of human resources;~~ 62820
~~(E) The division of information technology;~~ 62821
~~(F) The division of multi modal planning and programs;~~ 62822
~~(G) The division of project management;~~ 62823
~~(H) The division of equal opportunity.~~ 62824

~~The Pursuant to section 5501.02 of the Revised Code, the~~ 62825
director of transportation shall distribute the duties, powers, 62826
and functions of the department among the divisions of the 62827
department. 62828

Each division shall be headed by a deputy director, whose 62829
title shall be designated by the director, and shall include those 62830
other officers and employees as may be necessary to carry out the 62831
work of the division. ~~The director shall appoint the~~ Each deputy 62832
director of each division, ~~who~~ shall be in the unclassified civil 62833
service of the state and shall serve at the pleasure of the 62834
director. ~~The director shall supervise the work of each division~~ 62835
~~and~~ shall be responsible for the determination of general policies 62836
in the performance of the duties, powers, and functions of the 62837
department and of each division. The director shall have complete 62838
executive charge of the department, shall be responsible for the 62839
organization, direction, and supervision of the work of the 62840
department and the performance of the duties, powers, and 62841
functions assigned to each division, and may establish necessary 62842
administrative units therein. ~~The~~ Each deputy director of each 62843

division, with the approval of the director and subject to Chapter 62844
124. of the Revised Code, shall appoint the necessary employees of 62845
the division and may remove such employees for cause. 62846

~~The division of equal opportunity shall ensure that minority 62847
groups and all groups protected by state and federal civil rights 62848
laws are afforded equal opportunity to be recruited, trained, and 62849
work in the employment of or on projects of the department of 62850
transportation, and to participate in contracts awarded by the 62851
department. The director of transportation each year shall report 62852
to the governor and the general assembly on the division's 62853
activities and accomplishments. 62854~~

Sec. 5501.07. In addition to those duties, powers, and 62855
functions the director of transportation assigns to it, the office 62856
of ~~public transportation of the division of multi-modal planning 62857
and programs~~ transit: 62858

(A) May issue grants from any public transportation grant 62859
appropriation to county transit boards, regional transit 62860
authorities, regional transit commissions, counties, municipal 62861
corporations, and private nonprofit organizations that operate or 62862
will operate a public transportation system. 62863

The director shall establish criteria for the distribution of 62864
such grants. These criteria may include and the director may 62865
consider each of the following: 62866

(1) The degree to which comprehensive regional transportation 62867
planning goals may be attained through a program for which a grant 62868
will be used; 62869

(2) The amount of local financial or other support of public 62870
transportation operations and facilities affected by the program; 62871

(3) The levels of existing service and fare; 62872

(4) The degree to which the proposed plan demonstrates 62873

approaches of potential value to other local transit boards, 62874
authorities, commissions, counties, municipal corporations, and 62875
private nonprofit organizations operating public transportation 62876
systems; 62877

(5) The degree to which the grant applicant will use state 62878
and local funds to match a federal grant; 62879

(6) Such other factors as the director determines. 62880

Any criteria established by the director for the distribution 62881
of such grants shall be consistent with the requirements of the 62882
United States department of transportation, or any administration 62883
in the department, including, but not limited to, the federal 62884
transit administration. The director may designate in the criteria 62885
certain dates after which applications for specified portions of 62886
the appropriations made for this purpose will not be accepted. 62887

(B) May issue grants from any elderly and handicapped transit 62888
fare assistance grant appropriation to county transit boards, 62889
regional transit authorities, regional transit commissions, 62890
counties, municipal corporations, and private nonprofit 62891
organizations that operate or will operate public transportation 62892
systems for the purpose of reducing the transit or paratransit 62893
fares of elderly or handicapped persons. The director shall 62894
establish criteria for the distribution of such grants. 62895

(C) May administer provisions of federal public 62896
transportation acts or programs applicable within the state, 62897
pursuant to an agreement entered into by the director with an 62898
appropriate official of the federal agency responsible for 62899
implementation of the federal acts or programs. The federal acts 62900
or programs shall include, but are not limited to, programs 62901
authorized under the "Act of July 5, 1994," 108 Stat. 785, 49 62902
U.S.C.A. 5301, as amended. 62903

(D) Shall furnish, upon request and within the limits of 62904

appropriated funds, guidance in technical or policy matters to a 62905
county transit board, regional transit authority, regional transit 62906
commission, county, municipal corporation, or private nonprofit 62907
organization that operates or proposes to operate a public 62908
transportation system, and provide assistance and liaison in the 62909
preparation and submission of applications for federal and state 62910
funds; 62911

(E) May apply for and accept grants or loans from any federal 62912
agency for the purpose of providing for the development or 62913
improvement of public transportation facilities or for the 62914
coordination of any activities related to the development or 62915
improvement of such facilities, and may provide any consideration 62916
from any public transportation grant appropriation and enter into 62917
any contracts that may be required in order to obtain such grants 62918
or loans from a federal agency. 62919

Sec. 5502.01. (A) The department of public safety shall 62920
administer and enforce the laws relating to the registration, 62921
licensing, sale, and operation of motor vehicles and the laws 62922
pertaining to the licensing of drivers of motor vehicles. 62923

The department shall compile, analyze, and publish statistics 62924
relative to motor vehicle accidents and the causes of them, 62925
prepare and conduct educational programs for the purpose of 62926
promoting safety in the operation of motor vehicles on the 62927
highways, and conduct research and studies for the purpose of 62928
promoting safety on the highways of this state. 62929

(B) The department shall administer the laws and rules 62930
relative to trauma and emergency medical services specified in 62931
Chapter 4765. of the Revised Code and any laws and rules relative 62932
to commercial medical transportation services as may be specified 62933
in Chapter 4766. of the Revised Code. 62934

(C) The department shall administer and enforce the laws 62935

contained in Chapters 4301. and 4303. of the Revised Code and 62936
enforce the rules and orders of the liquor control commission 62937
pertaining to retail liquor permit holders. 62938

(D) The department shall administer the laws governing the 62939
state emergency management agency and shall enforce all additional 62940
duties and responsibilities as prescribed in the Revised Code 62941
related to emergency management services. 62942

(E) The department shall conduct investigations pursuant to 62943
Chapter 5101. of the Revised Code in support of the duty of the 62944
department of job and family services to administer the 62945
supplemental nutrition assistance program throughout this state. 62946
The department of public safety shall conduct investigations 62947
necessary to protect the state's property rights and interests in 62948
the supplemental nutrition assistance program. 62949

(F) The department of public safety shall enforce compliance 62950
with orders and rules of the public utilities commission and 62951
applicable laws in accordance with Chapters ~~4919.~~ 4905., 4921., 62952
and 4923. of the Revised Code regarding commercial motor vehicle 62953
transportation safety, economic, and hazardous materials 62954
requirements. 62955

(G) Notwithstanding Chapter 4117. of the Revised Code, the 62956
department of public safety may establish requirements for its 62957
enforcement personnel, including its enforcement agents described 62958
in section 5502.14 of the Revised Code, that include standards of 62959
conduct, work rules and procedures, and criteria for eligibility 62960
as law enforcement personnel. 62961

(H) The department shall administer, maintain, and operate 62962
the Ohio criminal justice network. The Ohio criminal justice 62963
network shall be a computer network that supports state and local 62964
criminal justice activities. The network shall be an electronic 62965
repository for various data, which may include arrest warrants, 62966

notices of persons wanted by law enforcement agencies, criminal 62967
records, prison inmate records, stolen vehicle records, vehicle 62968
operator's licenses, and vehicle registrations and titles. 62969

(I) The department shall coordinate all homeland security 62970
activities of all state agencies and shall be a liaison between 62971
state agencies and local entities for those activities and related 62972
purposes. 62973

(J) Beginning July 1, 2004, the department shall administer 62974
and enforce the laws relative to private investigators and 62975
security service providers specified in Chapter 4749. of the 62976
Revised Code. 62977

(K) The department shall administer criminal justice services 62978
in accordance with sections 5502.61 to 5502.66 of the Revised 62979
Code. 62980

Sec. 5502.011. (A) As used in this section, "department of 62981
public safety" and "department" include all divisions within the 62982
department of public safety. 62983

(B) The director ~~of the department~~ of public safety is the 62984
chief executive and administrative officer of the department. The 62985
director may establish policies governing the department, the 62986
performance of its employees and officers, the conduct of its 62987
business, and the custody, use, and preservation of departmental 62988
records, papers, books, documents, and property. The director also 62989
may authorize and approve investigations to be conducted by any of 62990
the department's divisions. Whenever the Revised Code imposes a 62991
duty upon or requires an action of the department, the director 62992
may perform the action or duty in the name of the department or 62993
direct such performance to be performed by the director's 62994
designee. 62995

(C) In addition to any other duties enumerated in the Revised 62996

Code, the director or the director's designee shall do all of the following: 62997
62998

(1) Administer and direct the performance of the duties of the department; 62999
63000

(2) Pursuant to Chapter 119. of the Revised Code, approve, adopt, and prescribe such forms and rules as are necessary to carry out the duties of the department; 63001
63002
63003

(3) On behalf of the department and in addition to any authority the Revised Code otherwise grants to the department, have the authority and responsibility for approving and entering into contracts, agreements, and other business arrangements; 63004
63005
63006
63007

(4) Make appointments for the department as needed to comply with requirements of the Revised Code; 63008
63009

(5) Approve employment actions of the department, including appointments, promotions, discipline, investigations, and terminations; 63010
63011
63012

(6) Accept, hold, and use, for the benefit of the department, any gift, donation, bequest, or devise, and may agree to and perform all conditions of the gift, donation, bequest, or devise, that are not contrary to law; 63013
63014
63015
63016

(7) Apply for, allocate, disburse, and account for grants made available under federal law or from other federal, state, or private sources; 63017
63018
63019

(8) Do all other acts necessary or desirable to carry out this chapter. 63020
63021

(D)(1) The director of public safety may assess a reasonable fee, plus the amount of any charge or fee passed on from a financial institution, on a drawer or indorser for each of the following: 63022
63023
63024
63025

(a) A check, draft, or money order that is returned or 63026

dishonored; 63027

(b) An automatic bank transfer that is declined, due to 63028
insufficient funds or for any other reason; 63029

(c) Any financial transaction device that is returned or 63030
dishonored for any reason. 63031

(2) The director shall deposit any fee collected under this 63032
division in an appropriate fund as determined by the director 63033
based on the tax, fee, or fine being paid. 63034

(3) As used in this division, "financial transaction device" 63035
has the same meaning as in section 113.40 of the Revised Code. 63036

(E) The director shall establish a homeland security advisory 63037
council to advise the director on homeland security, including 63038
homeland security funding efforts. The advisory council shall 63039
include, but not be limited to, state and local government 63040
officials who have homeland security or emergency management 63041
responsibilities and who represent first responders. The director 63042
shall appoint the members of the council, who shall serve without 63043
compensation. 63044

~~(F) The director of public safety shall adopt rules in 63045
accordance with Chapter 119. of the Revised Code as required by 63046
section 2909.28 of the Revised Code and division (A)(1) of section 63047
2909.32 of the Revised Code. The director shall adopt rules as 63048
required by division (D) of section 2909.32 of the Revised Code, 63049
division (E) of section 2909.33 of the Revised Code, and division 63050
(D) of section 2909.34 of the Revised Code. The director may adopt 63051
rules pursuant to division (A)(2) of section 2909.32 of the 63052
Revised Code, division (A)(2) of section 2909.33 of the Revised 63053
Code, and division (A)(2) of section 2909.34 of the Revised Code. 63054~~

Sec. ~~5503.21~~ 5502.05. There is hereby created in the 63055
department of public safety, ~~division of state highway patrol,~~ a 63056

driver's license examination section ~~to be administered by the~~ 63057
~~superintendent of the state highway patrol.~~ 63058

The ~~superintendent, with the approval of the~~ director of 63059
public safety, may appoint necessary driver's license examiners 63060
and clerical personnel necessary to carry out the duties assigned 63061
under this section. The examiners shall be citizens of the United 63062
States and residents of the state and shall have such additional 63063
qualifications as the ~~superintendent, with the approval of the~~ 63064
director, prescribes. 63065

The salaries and classifications of examiners and personnel 63066
shall be fixed in accordance with section 124.15 or 124.152 of the 63067
Revised Code. 63068

Sec. 5503.22 5502.06. Driver's license examiners assigned to 63069
the driver's license examination section shall conduct all 63070
examinations for driver's licenses as required by sections 4507.01 63071
to 4507.36 of the Revised Code, subject to the ~~regulations~~ rules 63072
issued by the registrar of motor vehicles. 63073

Sec. 5503.23 5502.07. The ~~superintendent of the state highway~~ 63074
~~patrol, with the approval of the~~ director of public safety, may 63075
conduct training schools for prospective driver's license 63076
examiners. ~~The superintendent~~ and may establish rules governing 63077
the qualifications for admission to such schools and provide for 63078
competitive examinations to determine the fitness of such students 63079
for prospective examiners, not inconsistent with the rules of the 63080
director of administrative services. 63081

Sec. 5503.02. (A) The state highway patrol shall enforce the 63082
laws of the state relating to the titling, registration, and 63083
licensing of motor vehicles; enforce on all roads and highways, 63084
notwithstanding section 4513.39 of the Revised Code, the laws 63085
relating to the operation and use of vehicles on the highways; 63086

enforce and prevent the violation of the laws relating to the 63087
size, weight, and speed of commercial motor vehicles and all laws 63088
designed for the protection of the highway pavements and 63089
structures on the highways; investigate and enforce rules and laws 63090
of the public utilities commission governing the transportation of 63091
persons and property by motor carriers and report violations of 63092
such rules and laws to the commission; enforce against any motor 63093
~~transportation company~~ carrier as defined in section ~~4921.02~~ 63094
4923.01 of the Revised Code, ~~any contract carrier by motor vehicle~~ 63095
~~as defined in section 4923.02 of the Revised Code, any private~~ 63096
~~motor carrier as defined in section 4923.20 of the Revised Code,~~ 63097
~~and any motor carrier as defined in section 4919.75 of the Revised~~ 63098
Code those rules and laws that, if violated, may result in a 63099
forfeiture as provided in section ~~4905.83, 4919.99, 4921.99, or~~ 63100
4923.99 of the Revised Code; investigate and report violations of 63101
all laws relating to the collection of excise taxes on motor 63102
vehicle fuels; and regulate the movement of traffic on the roads 63103
and highways of the state, notwithstanding section 4513.39 of the 63104
Revised Code. 63105

The patrol, whenever possible, shall determine the identity 63106
of the persons who are causing or who are responsible for the 63107
breaking, damaging, or destruction of any improved surfaced 63108
roadway, structure, sign, marker, guardrail, or other appurtenance 63109
constructed or maintained by the department of transportation and 63110
shall arrest the persons who are responsible for the breaking, 63111
damaging, or destruction and bring them before the proper 63112
officials for prosecution. 63113

State highway patrol troopers shall investigate and report 63114
all motor vehicle accidents on all roads and highways outside of 63115
municipal corporations. The superintendent of the patrol or any 63116
state highway patrol trooper may arrest, without a warrant, any 63117
person, who is the driver of or a passenger in any vehicle 63118

operated or standing on a state highway, whom the superintendent 63119
or trooper has reasonable cause to believe is guilty of a felony, 63120
under the same circumstances and with the same power that any 63121
peace officer may make such an arrest. 63122

The superintendent or any state highway patrol trooper may 63123
enforce the criminal laws on all state properties and state 63124
institutions, owned or leased by the state, and, when so ordered 63125
by the governor in the event of riot, civil disorder, or 63126
insurrection, may, pursuant to sections 2935.03 to 2935.05 of the 63127
Revised Code, arrest offenders against the criminal laws wherever 63128
they may be found within the state if the violations occurred 63129
upon, or resulted in injury to person or property on, state 63130
properties or state institutions, or under the conditions 63131
described in division (B) of this section. This authority of the 63132
superintendent and any state highway patrol trooper to enforce the 63133
criminal laws shall extend to any privately owned prison that 63134
houses state of Ohio inmates within the boundaries of this state 63135
and that is being operated pursuant to an agreement with the 63136
department of rehabilitation and correction pursuant to section 63137
9.06 of the Revised Code, to the same extent as if the prison were 63138
owned by this state. 63139

(B) In the event of riot, civil disorder, or insurrection, or 63140
the reasonable threat of riot, civil disorder, or insurrection, 63141
and upon request, as provided in this section, of the sheriff of a 63142
county or the mayor or other chief executive of a municipal 63143
corporation, the governor may order the state highway patrol to 63144
enforce the criminal laws within the area threatened by riot, 63145
civil disorder, or insurrection, as designated by the governor, 63146
upon finding that law enforcement agencies within the counties 63147
involved will not be reasonably capable of controlling the riot, 63148
civil disorder, or insurrection and that additional assistance is 63149
necessary. In cities in which the sheriff is under contract to 63150

provide exclusive police services pursuant to section 311.29 of 63151
the Revised Code, in villages, and in the unincorporated areas of 63152
the county, the sheriff has exclusive authority to request the use 63153
of the patrol. In cities in which the sheriff does not exclusively 63154
provide police services, the mayor, or other chief executive 63155
performing the duties of mayor, has exclusive authority to request 63156
the use of the patrol. 63157

The superintendent or any state highway patrol trooper may 63158
enforce the criminal laws within the area designated by the 63159
governor during the emergency arising out of the riot, civil 63160
disorder, or insurrection until released by the governor upon 63161
consultation with the requesting authority. State highway patrol 63162
troopers shall never be used as peace officers in connection with 63163
any strike or labor dispute. 63164

When a request for the use of the patrol is made pursuant to 63165
this division, the requesting authority shall notify the law 63166
enforcement authorities in contiguous communities and the sheriff 63167
of each county within which the threatened area, or any part of 63168
the threatened area, lies of the request, but the failure to 63169
notify the authorities or a sheriff shall not affect the validity 63170
of the request. 63171

(C) Any person who is arrested by the superintendent or a 63172
state highway patrol trooper shall be taken before any court or 63173
magistrate having jurisdiction of the offense with which the 63174
person is charged. Any person who is arrested or apprehended 63175
within the limits of a municipal corporation shall be brought 63176
before the municipal court or other tribunal of the municipal 63177
corporation. 63178

(D)(1) State highway patrol troopers have the same right and 63179
power of search and seizure as other peace officers. 63180

No state official shall command, order, or direct any state 63181

highway patrol trooper to perform any duty or service that is not 63182
authorized by law. The powers and duties conferred on the patrol 63183
are supplementary to, and in no way a limitation on, the powers 63184
and duties of sheriffs or other peace officers of the state. 63185

(2)(a) A state highway patrol trooper, pursuant to the policy 63186
established by the superintendent of the state highway patrol 63187
under division (D)(2)(b) of this section, may render emergency 63188
assistance to any other peace officer who has arrest authority 63189
under section 2935.03 of the Revised Code, if both of the 63190
following apply: 63191

(i) There is a threat of imminent physical danger to the 63192
peace officer, a threat of physical harm to another person, or any 63193
other serious emergency situation; 63194

(ii) Either the peace officer requests emergency assistance, 63195
or it appears that the peace officer is unable to request 63196
emergency assistance and the circumstances observed by the state 63197
highway patrol trooper reasonably indicate that emergency 63198
assistance is appropriate, or the peace officer requests emergency 63199
assistance and in the request the peace officer specifies a 63200
particular location and the state highway patrol trooper arrives 63201
at that location prior to the time that the peace officer arrives 63202
at that location and the circumstances observed by the state 63203
highway patrol trooper reasonably indicate that emergency 63204
assistance is appropriate. 63205

(b) The superintendent of the state highway patrol shall 63206
establish, within sixty days of August 8, 1991, a policy that sets 63207
forth the manner and procedures by which a state highway patrol 63208
trooper may render emergency assistance to any other peace officer 63209
under division (D)(2)(a) of this section. The policy shall include 63210
a provision that a state highway patrol trooper never be used as a 63211
peace officer in connection with any strike or labor dispute. 63212

(3)(a) A state highway patrol trooper who renders emergency assistance to any other peace officer under the policy established by the superintendent pursuant to division (D)(2)(b) of this section shall be considered to be performing regular employment for the purposes of compensation, pension, indemnity fund rights, workers' compensation, and other rights or benefits to which the trooper may be entitled as incident to regular employment.

(b) A state highway patrol trooper who renders emergency assistance to any other peace officer under the policy established by the superintendent pursuant to division (D)(2)(b) of this section retains personal immunity from liability as specified in section 9.86 of the Revised Code.

(c) A state highway patrol trooper who renders emergency assistance under the policy established by the superintendent pursuant to division (D)(2)(b) of this section has the same authority as the peace officer for or with whom the state highway patrol trooper is providing emergency assistance.

(E)(1) Subject to the availability of funds specifically appropriated by the general assembly for security detail purposes, the state highway patrol shall provide security as follows:

(a) For the governor;

(b) At the direction of the governor, for other officials of the state government of this state; officials of the state governments of other states who are visiting this state; officials of the United States government who are visiting this state; officials of the governments of foreign countries or their political subdivisions who are visiting this state; or other officials or dignitaries who are visiting this state, including, but not limited to, members of trade missions;

(c) For the capitol square, as defined in section 105.41 of the Revised Code;

(d) For other state property. 63244

(2) To carry out the security responsibilities of the patrol 63245
listed in division (E)(1) of this section, the superintendent may 63246
assign state highway patrol troopers to a separate unit that is 63247
responsible for security details. The number of troopers assigned 63248
to particular security details shall be determined by the 63249
superintendent. 63250

(3) The superintendent and any state highway patrol trooper, 63251
when providing security pursuant to division (E)(1)(a) or (b) of 63252
this section, have the same arrest powers as other peace officers 63253
to apprehend offenders against the criminal laws who endanger or 63254
threaten the security of any person being protected, no matter 63255
where the offense occurs. 63256

The superintendent, any state highway patrol trooper, and any 63257
special police officer designated under section 5503.09 of the 63258
Revised Code, when providing security pursuant to division 63259
(E)(1)(c) of this section, shall enforce any rules governing 63260
capitol square adopted by the capitol square review and advisory 63261
board. 63262

(F) The governor may order the state highway patrol to 63263
undertake major criminal investigations that involve state 63264
property interests. If an investigation undertaken pursuant to 63265
this division results in either the issuance of a no bill or the 63266
filing of an indictment, the superintendent shall file a complete 63267
and accurate report of the investigation with the president of the 63268
senate, the speaker of the house of representatives, the minority 63269
leader of the senate, and the minority leader of the house of 63270
representatives within fifteen days after the issuance of the no 63271
bill or the filing of an indictment. If the investigation does not 63272
have as its result any prosecutorial action, the superintendent 63273
shall, upon reporting this fact to the governor, file a complete 63274
and accurate report of the investigation with the president of the 63275

senate, the speaker of the house of representatives, the minority leader of the senate, and the minority leader of the house of representatives. 63276
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(G) The superintendent may purchase or lease real property and buildings needed by the patrol, negotiate the sale of real property owned by the patrol, rent or lease real property owned or leased by the patrol, and make or cause to be made repairs to all property owned or under the control of the patrol. Any instrument by which real property is acquired pursuant to this division shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code. 63279
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Sections 123.01 and 125.02 of the Revised Code do not limit the powers granted to the superintendent by this division. 63288
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Sec. 5503.04. Forty-five per cent of the fines collected from or moneys arising from bail forfeited by persons apprehended or arrested by state highway patrol troopers shall be paid into the state treasury to be credited to the general revenue fund, five per cent shall be paid into the state treasury to be credited to the trauma and emergency medical services ~~grants~~ fund created by ~~division (E) of~~ section 4513.263 of the Revised Code, and fifty per cent shall be paid into the treasury of the municipal corporation where the case is prosecuted, if in a mayor's court. If the prosecution is in a trial court outside a municipal corporation, or outside the territorial jurisdiction of a municipal court, the fifty per cent of the fines and moneys that is not paid into the state treasury shall be paid into the treasury of the county where the case is prosecuted. The fines and moneys paid into a county treasury and the fines and moneys paid into the treasury of a municipal corporation shall be deposited one-half to the same fund and expended in the same manner as is 63290
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the revenue received from the registration of motor vehicles, and 63307
one-half to the general fund of such county or municipal 63308
corporation. 63309

If the prosecution is in a municipal court, forty-five per 63310
cent of the fines and moneys shall be paid into the state treasury 63311
to be credited to the general revenue fund, five per cent shall be 63312
paid into the state treasury to be credited to the trauma and 63313
emergency medical services grants fund created by division (E) of 63314
section 4513.263 of the Revised Code, ten per cent shall be paid 63315
into the county treasury to be credited to the general fund of the 63316
county, and forty per cent shall be paid into the municipal 63317
treasury to be credited to the general fund of the municipal 63318
corporation. In the Auglaize county, Clermont county, Crawford 63319
county, Hocking county, Jackson county, Lawrence county, Madison 63320
county, Miami county, Ottawa county, Portage county, and Wayne 63321
county municipal courts, that portion of money otherwise paid into 63322
the municipal treasury shall be paid into the county treasury. 63323

The trial court shall make remittance of the fines and moneys 63324
as prescribed in this section, and at the same time as the 63325
remittance is made of the state's portion to the state treasury, 63326
the trial court shall notify the superintendent of the state 63327
highway patrol of the case and the amount covered by the 63328
remittance. 63329

This section does not apply to fines for violations of 63330
division (B) of section 4513.263 of the Revised Code, or for 63331
violations of any municipal ordinance that is substantively 63332
comparable to that division, all of which shall be delivered to 63333
the treasurer of state as provided in division (E) of section 63334
4513.263 of the Revised Code. 63335

Sec. 5503.34. There is hereby created in the department of 63336
public safety, division of state highway patrol, a motor carrier 63337

enforcement unit, to be administered by the superintendent of the 63338
state highway patrol. This unit shall be responsible for 63339
enforcement of commercial motor vehicle transportation safety~~7~~ 63340
~~economic~~, and hazardous materials requirements. 63341

The superintendent, with the approval of the director of 63342
public safety, may appoint and maintain necessary staff to carry 63343
out the duties assigned under this section. 63344

Employees of the motor carrier enforcement unit shall 63345
cooperate with the public utilities commission to enforce 63346
compliance with orders and rules of the commission, applicable 63347
laws under Chapters ~~4919~~ 4905., 4921., and 4923. of the Revised 63348
Code, and any other applicable laws or rules. 63349

Uniformed employees of the motor carrier enforcement unit may 63350
stop commercial motor vehicles for the exclusive purpose of 63351
inspecting such vehicles to enforce compliance with orders and 63352
rules of the public utilities commission as required by division 63353
(F) of section 5502.01 of the Revised Code. 63354

Sec. 5701.13. (A) As used in this section: 63355

(1) "Nursing home" means a nursing home or a home for the 63356
aging, as those terms are defined in section 3721.01 of the 63357
Revised Code, that is issued a license pursuant to section 3721.02 63358
of the Revised Code. 63359

(2) "Residential care facility" means a residential care 63360
facility, as defined in section 3721.01 of the Revised Code, that 63361
is issued a license pursuant to section 3721.02 of the Revised 63362
Code. 63363

(3) "~~Adult care~~ Residential facility" means ~~an adult care a~~ 63364
residential facility ~~as defined in licensed under~~ section ~~5119.70~~ 63365
5119.22 of the Revised Code that ~~is issued a license pursuant to~~ 63366
~~section 5119.73 of the Revised Code~~ provides accommodations, 63367

supervision, and personal care services for three to sixteen 63368
unrelated adults. 63369

(B) As used in Title LVII of the Revised Code, and for the 63370
purpose of other sections of the Revised Code that refer 63371
specifically to Chapter 5701. or section 5701.13 of the Revised 63372
Code, a "home for the aged" means either of the following: 63373

(1) A place of residence for aged and infirm persons that 63374
satisfies divisions (B)(1)(a) to (e) of this section: 63375

(a) It is a nursing home, residential care facility, or ~~adult~~ 63376
~~care~~ residential facility. 63377

(b) It is owned by a corporation, unincorporated association, 63378
or trust of a charitable, religious, or fraternal nature, which is 63379
organized and operated not for profit, which is not formed for the 63380
pecuniary gain or profit of, and whose net earnings or any part of 63381
whose net earnings is not distributable to, its members, trustees, 63382
officers, or other private persons, and which is exempt from 63383
federal income taxation under section 501 of the "Internal Revenue 63384
Code of 1986," 100 Stat. 2085, 26 U.S.C. 1. 63385

(c) It is open to the public without regard to race, color, 63386
or national origin. 63387

(d) It does not pay, directly or indirectly, compensation for 63388
services rendered, interest on debts incurred, or purchase price 63389
for land, building, equipment, supplies, or other goods or 63390
chattels, which compensation, interest, or purchase price is 63391
unreasonably high. 63392

(e) It provides services for the life of each resident 63393
without regard to the resident's ability to continue payment for 63394
the full cost of the services. 63395

(2) A place of residence that satisfies divisions (B)(1)(b), 63396
(d), and (e) of this section; that satisfies the definition of 63397

"nursing home" or "residential care facility" under section 63398
3721.01 of the Revised Code or the definition of "~~adult care~~ 63399
residential facility" under ~~section 5119.70 of the Revised Code~~ 63400
division (A)(3) of this section regardless of whether it is 63401
licensed as such a home or facility; and that is provided at no 63402
charge to individuals on account of their service without 63403
compensation to a charitable, religious, fraternal, or educational 63404
institution, which individuals are aged or infirm and are members 63405
of the corporation, association, or trust that owns the place of 63406
residence. For the purposes of division (B)(2) of this section, 63407
"compensation" does not include furnishing room and board, 63408
clothing, health care, or other necessities, or stipends or other 63409
de minimis payments to defray the cost thereof. 63410

Exemption from taxation shall be accorded, on proper 63411
application, only to those homes or parts of homes which meet the 63412
standards and provide the services specified in this section. 63413

Nothing in this section shall be construed as preventing a 63414
home from requiring a resident with financial need to apply for 63415
any applicable financial assistance or requiring a home to retain 63416
a resident who willfully refuses to pay for services for which the 63417
resident has contracted even though the resident has sufficient 63418
resources to do so. 63419

(C)(1) If a corporation, unincorporated association, or trust 63420
described in division (B)(1)(b) of this section is granted a 63421
certificate of need pursuant to section 3702.52 of the Revised 63422
Code to construct, add to, or otherwise modify a nursing home, or 63423
is given approval pursuant to section 3791.04 of the Revised Code 63424
to construct, add to, or otherwise modify a residential care 63425
facility or ~~adult care~~ residential facility and if the 63426
corporation, association, or trust submits an affidavit to the tax 63427
commissioner stating that, commencing on the date of licensure and 63428
continuing thereafter, the home or facility will be operated in 63429

accordance with the requirements of divisions (B)(1)(a) to (e) of 63430
this section, the corporation, association, or trust shall be 63431
considered to be operating a "home for the aged" within the 63432
meaning of division (B)(1) of this section, beginning on the first 63433
day of January of the year in which such certificate is granted or 63434
approval is given. 63435

(2) If a corporation, association, or trust is considered to 63436
be operating a "home for the aged" pursuant to division (C)(1) of 63437
this section, the corporation, association, or trust shall notify 63438
the tax commissioner in writing upon the occurrence of any of the 63439
following events: 63440

(a) The corporation, association, or trust no longer intends 63441
to complete the construction of, addition to, or modification of 63442
the home or facility, to obtain the appropriate license for the 63443
home or facility, or to commence operation of the home or facility 63444
in accordance with the requirements of divisions (B)(1)(a) to (e) 63445
of this section; 63446

(b) The certificate of approval referred to in division 63447
(C)(1) of this section expires, is revoked, or is otherwise 63448
terminated prior to the completion of the construction of, 63449
addition to, or modification of the home or facility; 63450

(c) The license to operate the home or facility is not 63451
granted by the director of health within one year following 63452
completion of the construction of, addition to, or modification of 63453
the home or facility; 63454

(d) The license to operate the home or facility is not 63455
granted by the director of health within four years following the 63456
date upon which the certificate or approval referred to in 63457
division (C)(1) of this section was granted or given; 63458

(e) The home or facility is granted a license to operate as a 63459
nursing home, residential care facility, or ~~adult care~~ residential 63460

facility. 63461

(3) Upon the occurrence of any of the events referred to in 63462
divisions (C)(2)(a), (b), (c), (d), and (e) of this section, the 63463
corporation, association, or trust shall no longer be considered 63464
to be operating a "home for the aged" pursuant to division (C)(1) 63465
of this section, except that the tax commissioner, for good cause 63466
shown and to the extent the commissioner considers appropriate, 63467
may extend the time period specified in division (C)(2)(c) or (d) 63468
of this section, or both. Nothing in division (C)(3) of this 63469
section shall be construed to prevent a nursing home, residential 63470
care facility, or ~~adult-care~~ residential facility from qualifying 63471
as a "home for the aged" if, upon proper application made pursuant 63472
to division (B) of this section, it is found to meet the 63473
requirements of divisions (A) and (B) of this section. 63474

Sec. 5703.05. All powers, duties, and functions of the 63475
department of taxation are vested in and shall be performed by the 63476
tax commissioner, which powers, duties, and functions shall 63477
include, but shall not be limited to, the following: 63478

(A) Prescribing all blank forms which the department is 63479
authorized to prescribe, and to provide such forms and distribute 63480
the same as required by law and the rules of the department. 63481

(B) Exercising the authority provided by law, including 63482
orders from bankruptcy courts, relative to remitting or refunding 63483
taxes or assessments, including penalties and interest thereon, 63484
illegally or erroneously assessed or collected, or for any other 63485
reason overpaid, and in addition, the commissioner may on written 63486
application of any person, firm, or corporation claiming to have 63487
overpaid to the treasurer of state at any time within five years 63488
prior to the making of such application any tax payable under any 63489
law which the department of taxation is required to administer 63490
which does not contain any provision for refund, or on the 63491

commissioner's own motion investigate the facts and make in 63492
triplicate a written statement of the commissioner's findings, 63493
and, if the commissioner finds that there has been an overpayment, 63494
issue in triplicate a certificate of abatement payable to the 63495
taxpayer, the taxpayer's assigns, or legal representative which 63496
shows the amount of the overpayment and the kind of tax overpaid. 63497
One copy of such statement shall be entered on the journal of the 63498
commissioner, one shall be certified to the attorney general, and 63499
one certified copy shall be delivered to the taxpayer. All copies 63500
of the certificate of abatement shall be transmitted to the 63501
attorney general, and if the attorney general finds it to be 63502
correct the attorney general shall so certify on each copy, and 63503
deliver one copy to the taxpayer, one copy to the commissioner, 63504
and the third copy to the treasurer of state. Except as provided 63505
in ~~sections~~ section 5725.08 and ~~5725.16~~ of the Revised Code, the 63506
taxpayer's copy of any certificates of abatement may be tendered 63507
by the payee or transferee thereof to the treasurer of state, or 63508
to the commissioner on behalf of the treasurer, as payment, to the 63509
extent of the amount thereof, of any tax payable to the treasurer 63510
of state. 63511

(C) Exercising the authority provided by law relative to 63512
consenting to the compromise and settlement of tax claims; 63513

(D) Exercising the authority provided by law relative to the 63514
use of alternative tax bases by taxpayers in the making of 63515
personal property tax returns; 63516

(E) Exercising the authority provided by law relative to 63517
authorizing the prepayment of taxes on retail sales of tangible 63518
personal property or on the storage, use, or consumption of 63519
personal property, and waiving the collection of such taxes from 63520
the consumers; 63521

(F) Exercising the authority provided by law to revoke 63522
licenses; 63523

(G) Maintaining a continuous study of the practical operation 63524
of all taxation and revenue laws of the state, the manner in which 63525
and extent to which such laws provide revenues for the support of 63526
the state and its political subdivisions, the probable effect upon 63527
such revenue of possible changes in existing laws, and the 63528
possible enactment of measures providing for other forms of 63529
taxation. For this purpose the commissioner may establish and 63530
maintain a division of research and statistics, and may appoint 63531
necessary employees who shall be in the unclassified civil 63532
service; the results of such study shall be available to the 63533
members of the general assembly and the public. 63534

(H) Making all tax assessments, valuations, findings, 63535
determinations, computations, and orders the department of 63536
taxation is by law authorized and required to make and, pursuant 63537
to time limitations provided by law, on the commissioner's own 63538
motion, reviewing, redetermining, or correcting any tax 63539
assessments, valuations, findings, determinations, computations, 63540
or orders the commissioner has made, but the commissioner shall 63541
not review, redetermine, or correct any tax assessment, valuation, 63542
finding, determination, computation, or order which the 63543
commissioner has made as to which an appeal or application for 63544
rehearing, review, redetermination, or correction has been filed 63545
with the board of tax appeals, unless such appeal or application 63546
is withdrawn by the appellant or applicant or dismissed; 63547

(I) Appointing not more than five deputy tax commissioners, 63548
who, under such regulations as the rules of the department of 63549
taxation prescribe, may act for the commissioner in the 63550
performance of such duties as the commissioner prescribes in the 63551
administration of the laws which the commissioner is authorized 63552
and required to administer, and who shall serve in the 63553
unclassified civil service at the pleasure of the commissioner, 63554
but if a person who holds a position in the classified service is 63555

appointed, it shall not affect the civil service status of such 63556
person. The commissioner may designate not more than two of the 63557
deputy commissioners to act as commissioner in case of the 63558
absence, disability, or recusal of the commissioner or vacancy in 63559
the office of commissioner. The commissioner may adopt rules 63560
relating to the order of precedence of such designated deputy 63561
commissioners and to their assumption and administration of the 63562
office of commissioner. 63563

(J) Appointing and prescribing the duties of all other 63564
employees of the department of taxation necessary in the 63565
performance of the work of the department which the tax 63566
commissioner is by law authorized and required to perform, and 63567
creating such divisions or sections of employees as, in the 63568
commissioner's judgment, is proper; 63569

(K) Organizing the work of the department, which the 63570
commissioner is by law authorized and required to perform, so 63571
that, in the commissioner's judgment, an efficient and economical 63572
administration of the laws will result; 63573

(L) Maintaining a journal, which is open to public 63574
inspection, in which the tax commissioner shall keep a record of 63575
all final determinations of the commissioner; 63576

(M) Adopting and promulgating, in the manner provided by 63577
section 5703.14 of the Revised Code, all rules of the department, 63578
including rules for the administration of sections 3517.16, 63579
3517.17, and 5747.081 of the Revised Code; 63580

(N) Destroying any or all returns or assessment certificates 63581
in the manner authorized by law; 63582

(O) Adopting rules, in accordance with division (B) of 63583
section 325.31 of the Revised Code, governing the expenditure of 63584
moneys from the real estate assessment fund under that division. 63585

Sec. 5709.12. (A) As used in this section, "independent living facilities" means any residential housing facilities and related property that are not a nursing home, residential care facility, or ~~adult care~~ residential facility as defined in division (A) of section 5701.13 of the Revised Code.

(B) Lands, houses, and other buildings belonging to a county, township, or municipal corporation and used exclusively for the accommodation or support of the poor, or leased to the state or any political subdivision for public purposes shall be exempt from taxation. Real and tangible personal property belonging to institutions that is used exclusively for charitable purposes shall be exempt from taxation, including real property belonging to an institution that is a nonprofit corporation that receives a grant under the Thomas Alva Edison grant program authorized by division (C) of section 122.33 of the Revised Code at any time during the tax year and being held for leasing or resale to others. If, at any time during a tax year for which such property is exempted from taxation, the corporation ceases to qualify for such a grant, the director of development shall notify the tax commissioner, and the tax commissioner shall cause the property to be restored to the tax list beginning with the following tax year. All property owned and used by a nonprofit organization exclusively for a home for the aged, as defined in section 5701.13 of the Revised Code, also shall be exempt from taxation.

(C)(1) If a home for the aged described in division (B)(1) of section 5701.13 of the Revised Code is operated in conjunction with or at the same site as independent living facilities, the exemption granted in division (B) of this section shall include kitchen, dining room, clinic, entry ways, maintenance and storage areas, and land necessary for access commonly used by both residents of the home for the aged and residents of the independent living facilities. Other facilities commonly used by

both residents of the home for the aged and residents of 63618
independent living units shall be exempt from taxation only if the 63619
other facilities are used primarily by the residents of the home 63620
for the aged. Vacant land currently unused by the home, and 63621
independent living facilities and the lands connected with them 63622
are not exempt from taxation. Except as provided in division 63623
(A)(1) of section 5709.121 of the Revised Code, property of a home 63624
leased for nonresidential purposes is not exempt from taxation. 63625

(2) Independent living facilities are exempt from taxation if 63626
they are operated in conjunction with or at the same site as a 63627
home for the aged described in division (B)(2) of section 5701.13 63628
of the Revised Code; operated by a corporation, association, or 63629
trust described in division (B)(1)(b) of that section; operated 63630
exclusively for the benefit of members of the corporation, 63631
association, or trust who are retired, aged, or infirm; and 63632
provided to those members without charge in consideration of their 63633
service, without compensation, to a charitable, religious, 63634
fraternal, or educational institution. For the purposes of 63635
division (C)(2) of this section, "compensation" does not include 63636
furnishing room and board, clothing, health care, or other 63637
necessities, or stipends or other de minimis payments to defray 63638
the cost thereof. 63639

(D)(1) A private corporation established under federal law, 63640
defined in 36 U.S.C. 1101, Pub. L. No. 102-199, 105 Stat. 1629, as 63641
amended, the objects of which include encouraging the advancement 63642
of science generally, or of a particular branch of science, the 63643
promotion of scientific research, the improvement of the 63644
qualifications and usefulness of scientists, or the increase and 63645
diffusion of scientific knowledge is conclusively presumed to be a 63646
charitable or educational institution. A private corporation 63647
established as a nonprofit corporation under the laws of a state, 63648
that is exempt from federal income taxation under section 63649

501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 63650
U.S.C.A. 1, as amended, and has as its principal purpose one or 63651
more of the foregoing objects, also is conclusively presumed to be 63652
a charitable or educational institution. 63653

The fact that an organization described in this division 63654
operates in a manner that results in an excess of revenues over 63655
expenses shall not be used to deny the exemption granted by this 63656
section, provided such excess is used, or is held for use, for 63657
exempt purposes or to establish a reserve against future 63658
contingencies; and, provided further, that such excess may not be 63659
distributed to individual persons or to entities that would not be 63660
entitled to the tax exemptions provided by this chapter. Nor shall 63661
the fact that any scientific information diffused by the 63662
organization is of particular interest or benefit to any of its 63663
individual members be used to deny the exemption granted by this 63664
section, provided that such scientific information is available to 63665
the public for purchase or otherwise. 63666

(2) Division (D)(2) of this section does not apply to real 63667
property exempted from taxation under this section and division 63668
(A)(3) of section 5709.121 of the Revised Code and belonging to a 63669
nonprofit corporation described in division (D)(1) of this section 63670
that has received a grant under the Thomas Alva Edison grant 63671
program authorized by division (C) of section 122.33 of the 63672
Revised Code during any of the tax years the property was exempted 63673
from taxation. 63674

When a private corporation described in division (D)(1) of 63675
this section sells all or any portion of a tract, lot, or parcel 63676
of real estate that has been exempt from taxation under this 63677
section and section 5709.121 of the Revised Code, the portion sold 63678
shall be restored to the tax list for the year following the year 63679
of the sale and, except in connection with a sale and transfer of 63680
such a tract, lot, or parcel to a county land reutilization 63681

corporation organized under Chapter 1724. of the Revised Code, a 63682
charge shall be levied against the sold property in an amount 63683
equal to the tax savings on such property during the four tax 63684
years preceding the year the property is placed on the tax list. 63685
The tax savings equals the amount of the additional taxes that 63686
would have been levied if such property had not been exempt from 63687
taxation. 63688

The charge constitutes a lien of the state upon such property 63689
as of the first day of January of the tax year in which the charge 63690
is levied and continues until discharged as provided by law. The 63691
charge may also be remitted for all or any portion of such 63692
property that the tax commissioner determines is entitled to 63693
exemption from real property taxation for the year such property 63694
is restored to the tax list under any provision of the Revised 63695
Code, other than sections 725.02, 1728.10, 3735.67, 5709.40, 63696
5709.41, 5709.62, 5709.63, 5709.71, 5709.73, 5709.78, and 5709.84, 63697
upon an application for exemption covering the year such property 63698
is restored to the tax list filed under section 5715.27 of the 63699
Revised Code. 63700

(E) Real property held by an organization organized and 63701
operated exclusively for charitable purposes as described under 63702
section 501(c)(3) of the Internal Revenue Code and exempt from 63703
federal taxation under section 501(a) of the Internal Revenue 63704
Code, 26 U.S.C.A. 501(a) and (c)(3), as amended, for the purpose 63705
of constructing or rehabilitating residences for eventual transfer 63706
to qualified low-income families through sale, lease, or land 63707
installment contract, shall be exempt from taxation. 63708

The exemption shall commence on the day title to the property 63709
is transferred to the organization and shall continue to the end 63710
of the tax year in which the organization transfers title to the 63711
property to a qualified low-income family. In no case shall the 63712
exemption extend beyond the second succeeding tax year following 63713

the year in which the title was transferred to the organization. 63714
If the title is transferred to the organization and from the 63715
organization to a qualified low-income family in the same tax 63716
year, the exemption shall continue to the end of that tax year. 63717
The proportionate amount of taxes that are a lien but not yet 63718
determined, assessed, and levied for the tax year in which title 63719
is transferred to the organization shall be remitted by the county 63720
auditor for each day of the year that title is held by the 63721
organization. 63722

Upon transferring the title to another person, the 63723
organization shall file with the county auditor an affidavit 63724
affirming that the title was transferred to a qualified low-income 63725
family or that the title was not transferred to a qualified 63726
low-income family, as the case may be; if the title was 63727
transferred to a qualified low-income family, the affidavit shall 63728
identify the transferee by name. If the organization transfers 63729
title to the property to anyone other than a qualified low-income 63730
family, the exemption, if it has not previously expired, shall 63731
terminate, and the property shall be restored to the tax list for 63732
the year following the year of the transfer and a charge shall be 63733
levied against the property in an amount equal to the amount of 63734
additional taxes that would have been levied if such property had 63735
not been exempt from taxation. The charge constitutes a lien of 63736
the state upon such property as of the first day of January of the 63737
tax year in which the charge is levied and continues until 63738
discharged as provided by law. 63739

The application for exemption shall be filed as otherwise 63740
required under section 5715.27 of the Revised Code, except that 63741
the organization holding the property shall file with its 63742
application documentation substantiating its status as an 63743
organization organized and operated exclusively for charitable 63744
purposes under section 501(c)(3) of the Internal Revenue Code and 63745

its qualification for exemption from federal taxation under 63746
section 501(a) of the Internal Revenue Code, and affirming its 63747
intention to construct or rehabilitate the property for the 63748
eventual transfer to qualified low-income families. 63749

As used in this division, "qualified low-income family" means 63750
a family whose income does not exceed two hundred per cent of the 63751
official federal poverty guidelines as revised annually in 63752
accordance with section 673(2) of the "Omnibus Budget 63753
Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as 63754
amended, for a family size equal to the size of the family whose 63755
income is being determined. 63756

(F) Real property held by a county land reutilization 63757
corporation organized under Chapter 1724. of the Revised Code 63758
shall be exempt from taxation. Notwithstanding section 5715.27 of 63759
the Revised Code, a county land reutilization corporation is not 63760
required to apply to any county or state agency in order to 63761
qualify for the exemption. 63762

The exemption shall commence on the day title to the property 63763
is transferred to the corporation and shall continue to the end of 63764
the tax year in which the instrument transferring title from the 63765
corporation to another owner is recorded, if the use to which the 63766
other owner puts the property does not qualify for an exemption 63767
under this section or any other section of the Revised Code. If 63768
the title to the property is transferred to the corporation and 63769
from the corporation in the same tax year, the exemption shall 63770
continue to the end of that tax year. The proportionate amount of 63771
taxes that are a lien but not yet determined, assessed, and levied 63772
for the tax year in which title is transferred to the corporation 63773
shall be remitted by the county auditor for each day of the year 63774
that title is held by the corporation. 63775

Upon transferring the title to another person, the 63776
corporation shall file with the county auditor an affidavit 63777

affirming that the title was transferred to such other person and 63778
shall identify the transferee by name. If the corporation 63779
transfers title to the property to anyone that does not qualify or 63780
the use to which the property is put does not qualify the property 63781
for an exemption under this section or any other section of the 63782
Revised Code, the exemption, if it has not previously expired, 63783
shall terminate, and the property shall be restored to the tax 63784
list for the year following the year of the transfer. A charge 63785
shall be levied against the property in an amount equal to the 63786
amount of additional taxes that would have been levied if such 63787
property had not been exempt from taxation. The charge constitutes 63788
a lien of the state upon such property as of the first day of 63789
January of the tax year in which the charge is levied and 63790
continues until discharged as provided by law. 63791

In lieu of the application for exemption otherwise required 63792
to be filed as required under section 5715.27 of the Revised Code, 63793
a count land reutilization corporation holding the property shall, 63794
upon the request of any county or state agency, submit its 63795
articles of incorporation substantiating its status as a county 63796
land reutilization corporation. 63797

Sec. 5709.212. (A) With every application for an exempt 63798
facility certificate filed pursuant to section 5709.21 of the 63799
Revised Code, the applicant shall pay a fee equal to one-half of 63800
one per cent of the total exempt facility project cost, not to 63801
exceed two thousand dollars. One-half of the fee received with 63802
applications for exempt facility certificates shall be credited to 63803
the exempt facility administrative fund, which is hereby created 63804
in the state treasury, for appropriation to the department of 63805
taxation for use in administering sections 5709.20 to 5709.27 of 63806
the Revised Code. If the director of environmental protection is 63807
required to provide the opinion for an application, one-half of 63808
the fee shall be credited to the non-Title V clean air fund 63809

created in section 3704.035 of the Revised Code for use in 63810
administering section 5709.211 of the Revised Code, unless the 63811
application is for an industrial water pollution control facility. 63812
If the application is for an industrial water pollution control 63813
facility, one-half of the fee shall be credited to the surface 63814
water protection fund created in section 6111.038 of the Revised 63815
Code for use in administering section 5709.211 of the Revised 63816
Code. If the director of development is required to provide the 63817
opinion for an application, one-half of the fee for each exempt 63818
facility application shall be credited to the exempt facility 63819
inspection fund, which is hereby created in the state treasury, 63820
for appropriation to the department of development for use in 63821
administering section 5709.211 of the Revised Code. 63822

An applicant is not entitled to any tax exemption under 63823
section 5709.25 of the Revised Code until the fee required by this 63824
section is paid. The fee required by this section is not 63825
refundable, and is due with the application for an exempt facility 63826
certificate even if an exempt facility certificate ultimately is 63827
not issued or is withdrawn. Any application submitted without 63828
payment of the fee shall be deemed incomplete until the fee is 63829
paid. 63830

(B) The application fee imposed under division (A) of this 63831
section for a jointly owned facility shall be equal to one-half of 63832
one per cent of the total exempt facility project cost, not to 63833
exceed two thousand dollars for each facility that is the subject 63834
of the application. 63835

Sec. 5709.73. (A) As used in this section and section 5709.74 63836
of the Revised Code: 63837

(1) "Business day" means a day of the week excluding 63838
Saturday, Sunday, and a legal holiday as defined in section 1.14 63839

of the Revised Code. 63840

(2) "Further improvements" or "improvements" means the 63841
increase in the assessed value of real property that would first 63842
appear on the tax list and duplicate of real and public utility 63843
property after the effective date of a resolution adopted under 63844
this section were it not for the exemption granted by that 63845
resolution. For purposes of division (B) of this section, 63846
"improvements" do not include any property used or to be used for 63847
residential purposes. 63848

(3) "Housing renovation" means a project carried out for 63849
residential purposes. 63850

(4) "Incentive district" has the same meaning as in section 63851
5709.40 of the Revised Code, except that a blighted area is in the 63852
unincorporated area of a township. 63853

(5) "Project" and "public infrastructure improvement" have 63854
the same meanings as in section 5709.40 of the Revised Code. 63855

(B) A board of township trustees may, by unanimous vote, 63856
adopt a resolution that declares to be a public purpose any public 63857
infrastructure improvements made that are necessary for the 63858
development of certain parcels of land located in the 63859
unincorporated area of the township. Except with the approval 63860
under division (D) of this section of the board of education of 63861
each city, local, or exempted village school district within which 63862
the improvements are located, the resolution may exempt from real 63863
property taxation not more than seventy-five per cent of further 63864
improvements to a parcel of land that directly benefits from the 63865
public infrastructure improvements, for a period of not more than 63866
ten years. The resolution shall specify the percentage of the 63867
further improvements to be exempted and the life of the exemption. 63868

(C)(1) A board of township trustees may adopt, by unanimous 63869
vote, a resolution creating an incentive district and declaring 63870

improvements to parcels within the district to be a public purpose 63871
and, except as provided in division (F) of this section, exempt 63872
from taxation as provided in this section, but no board of 63873
township trustees of a township that has a population that exceeds 63874
twenty-five thousand, as shown by the most recent federal 63875
decennial census, shall adopt a resolution that creates an 63876
incentive district if the sum of the taxable value of real 63877
property in the proposed district for the preceding tax year and 63878
the taxable value of all real property in the township that would 63879
have been taxable in the preceding year were it not for the fact 63880
that the property was in an existing incentive district and 63881
therefore exempt from taxation exceeds twenty-five per cent of the 63882
taxable value of real property in the township for the preceding 63883
tax year. The district shall be located within the unincorporated 63884
area of the township and shall not include any territory that is 63885
included within a district created under division (B) of section 63886
5709.78 of the Revised Code. The resolution shall delineate the 63887
boundary of the district and specifically identify each parcel 63888
within the district. A district may not include any parcel that is 63889
or has been exempted from taxation under division (B) of this 63890
section or that is or has been within another district created 63891
under this division. A resolution may create more than one 63892
district, and more than one resolution may be adopted under 63893
division (C)(1) of this section. 63894

(2) Not later than thirty days prior to adopting a resolution 63895
under division (C)(1) of this section, if the township intends to 63896
apply for exemptions from taxation under section 5709.911 of the 63897
Revised Code on behalf of owners of real property located within 63898
the proposed incentive district, the board shall conduct a public 63899
hearing on the proposed resolution. Not later than thirty days 63900
prior to the public hearing, the board shall give notice of the 63901
public hearing and the proposed resolution by first class mail to 63902
every real property owner whose property is located within the 63903

boundaries of the proposed incentive district that is the subject 63904
of the proposed resolution. 63905

(3)(a) A resolution adopted under division (C)(1) of this 63906
section shall specify the life of the incentive district and the 63907
percentage of the improvements to be exempted, shall designate the 63908
public infrastructure improvements made, to be made, or in the 63909
process of being made, that benefit or serve, or, once made, will 63910
benefit or serve parcels in the district. The resolution also 63911
shall identify one or more specific projects being, or to be, 63912
undertaken in the district that place additional demand on the 63913
public infrastructure improvements designated in the resolution. 63914
The project identified may, but need not be, the project under 63915
division (C)(3)(b) of this section that places real property in 63916
use for commercial or industrial purposes. 63917

A resolution adopted under division (C)(1) of this section on 63918
or after March 30, 2006, shall not designate police or fire 63919
equipment as public infrastructure improvements, and no service 63920
payment provided for in section 5709.74 of the Revised Code and 63921
received by the township under the resolution shall be used for 63922
police or fire equipment. 63923

(b) A resolution adopted under division (C)(1) of this 63924
section may authorize the use of service payments provided for in 63925
section 5709.74 of the Revised Code for the purpose of housing 63926
renovations within the incentive district, provided that the 63927
resolution also designates public infrastructure improvements that 63928
benefit or serve the district, and that a project within the 63929
district places real property in use for commercial or industrial 63930
purposes. Service payments may be used to finance or support 63931
loans, deferred loans, and grants to persons for the purpose of 63932
housing renovations within the district. The resolution shall 63933
designate the parcels within the district that are eligible for 63934
housing renovations. The resolution shall state separately the 63935

amount or the percentages of the expected aggregate service 63936
payments that are designated for each public infrastructure 63937
improvement and for the purpose of housing renovations. 63938

(4) Except with the approval of the board of education of 63939
each city, local, or exempted village school district within the 63940
territory of which the incentive district is or will be located, 63941
and subject to division (E) of this section, the life of an 63942
incentive district shall not exceed ten years, and the percentage 63943
of improvements to be exempted shall not exceed seventy-five per 63944
cent. With approval of the board of education, the life of a 63945
district may be not more than thirty years, and the percentage of 63946
improvements to be exempted may be not more than one hundred per 63947
cent. The approval of a board of education shall be obtained in 63948
the manner provided in division (D) of this section. 63949

(D) Improvements with respect to a parcel may be exempted 63950
from taxation under division (B) of this section, and improvements 63951
to parcels within an incentive district may be exempted from 63952
taxation under division (C) of this section, for up to ten years 63953
or, with the approval of the board of education of the city, 63954
local, or exempted village school district within which the parcel 63955
or district is located, for up to thirty years. The percentage of 63956
the improvements exempted from taxation may, with such approval, 63957
exceed seventy-five per cent, but shall not exceed one hundred per 63958
cent. Not later than forty-five business days prior to adopting a 63959
resolution under this section declaring improvements to be a 63960
public purpose that is subject to approval by a board of education 63961
under this division, the board of township trustees shall deliver 63962
to the board of education a notice stating its intent to adopt a 63963
resolution making that declaration. The notice regarding 63964
improvements with respect to a parcel under division (B) of this 63965
section shall identify the parcels for which improvements are to 63966
be exempted from taxation, provide an estimate of the true value 63967

in money of the improvements, specify the period for which the 63968
improvements would be exempted from taxation and the percentage of 63969
the improvements that would be exempted, and indicate the date on 63970
which the board of township trustees intends to adopt the 63971
resolution. The notice regarding improvements made under division 63972
(C) of this section to parcels within an incentive district shall 63973
delineate the boundaries of the district, specifically identify 63974
each parcel within the district, identify each anticipated 63975
improvement in the district, provide an estimate of the true value 63976
in money of each such improvement, specify the life of the 63977
district and the percentage of improvements that would be 63978
exempted, and indicate the date on which the board of township 63979
trustees intends to adopt the resolution. The board of education, 63980
by resolution adopted by a majority of the board, may approve the 63981
exemption for the period or for the exemption percentage specified 63982
in the notice; may disapprove the exemption for the number of 63983
years in excess of ten, may disapprove the exemption for the 63984
percentage of the improvements to be exempted in excess of 63985
seventy-five per cent, or both; or may approve the exemption on 63986
the condition that the board of township trustees and the board of 63987
education negotiate an agreement providing for compensation to the 63988
school district equal in value to a percentage of the amount of 63989
taxes exempted in the eleventh and subsequent years of the 63990
exemption period or, in the case of exemption percentages in 63991
excess of seventy-five per cent, compensation equal in value to a 63992
percentage of the taxes that would be payable on the portion of 63993
the improvements in excess of seventy-five per cent were that 63994
portion to be subject to taxation, or other mutually agreeable 63995
compensation. 63996

The board of education shall certify its resolution to the 63997
board of township trustees not later than fourteen days prior to 63998
the date the board of township trustees intends to adopt the 63999
resolution as indicated in the notice. If the board of education 64000

and the board of township trustees negotiate a mutually acceptable 64001
compensation agreement, the resolution may declare the 64002
improvements a public purpose for the number of years specified in 64003
the resolution or, in the case of exemption percentages in excess 64004
of seventy-five per cent, for the exemption percentage specified 64005
in the resolution. In either case, if the board of education and 64006
the board of township trustees fail to negotiate a mutually 64007
acceptable compensation agreement, the resolution may declare the 64008
improvements a public purpose for not more than ten years, and 64009
shall not exempt more than seventy-five per cent of the 64010
improvements from taxation. If the board of education fails to 64011
certify a resolution to the board of township trustees within the 64012
time prescribed by this section, the board of township trustees 64013
thereupon may adopt the resolution and may declare the 64014
improvements a public purpose for up to thirty years or, in the 64015
case of exemption percentages proposed in excess of seventy-five 64016
per cent, for the exemption percentage specified in the 64017
resolution. The board of township trustees may adopt the 64018
resolution at any time after the board of education certifies its 64019
resolution approving the exemption to the board of township 64020
trustees, or, if the board of education approves the exemption on 64021
the condition that a mutually acceptable compensation agreement be 64022
negotiated, at any time after the compensation agreement is agreed 64023
to by the board of education and the board of township trustees. 64024
If a mutually acceptable compensation agreement is negotiated 64025
between the board of township trustees and the board of education, 64026
including agreements for payments in lieu of taxes under section 64027
5709.74 of the Revised Code, the board of township trustees shall 64028
compensate the joint vocational school district within which the 64029
parcel or district is located at the same rate and under the same 64030
terms received by the city, local, or exempted village school 64031
district. 64032

If a board of education has adopted a resolution waiving its 64033

right to approve exemptions from taxation under this section and 64034
the resolution remains in effect, approval of such exemptions by 64035
the board of education is not required under division (D) of this 64036
section. If a board of education has adopted a resolution allowing 64037
a board of township trustees to deliver the notice required under 64038
division (D) of this section fewer than forty-five business days 64039
prior to adoption of the resolution by the board of township 64040
trustees, the board of township trustees shall deliver the notice 64041
to the board of education not later than the number of days prior 64042
to the adoption as prescribed by the board of education in its 64043
resolution. If a board of education adopts a resolution waiving 64044
its right to approve exemptions or shortening the notification 64045
period, the board of education shall certify a copy of the 64046
resolution to the board of township trustees. If the board of 64047
education rescinds the resolution, it shall certify notice of the 64048
rescission to the board of township trustees. 64049

If the board of township trustees is not required by division 64050
(D) of this section to notify the board of education of the board 64051
of township trustees' intent to declare improvements to be a 64052
public purpose, the board of township trustees shall comply with 64053
the notice requirements imposed under section 5709.83 of the 64054
Revised Code before taking formal action to adopt the resolution 64055
making that declaration, unless the board of education has adopted 64056
a resolution under that section waiving its right to receive the 64057
notice. 64058

(E)(1) If a proposed resolution under division (C)(1) of this 64059
section exempts improvements with respect to a parcel within an 64060
incentive district for more than ten years, or the percentage of 64061
the improvement exempted from taxation exceeds seventy-five per 64062
cent, not later than forty-five business days prior to adopting 64063
the resolution the board of township trustees shall deliver to the 64064
board of county commissioners of the county within which the 64065

incentive district is or will be located a notice that states its 64066
intent to adopt a resolution creating an incentive district. The 64067
notice shall include a copy of the proposed resolution, identify 64068
the parcels for which improvements are to be exempted from 64069
taxation, provide an estimate of the true value in money of the 64070
improvements, specify the period of time for which the 64071
improvements would be exempted from taxation, specify the 64072
percentage of the improvements that would be exempted from 64073
taxation, and indicate the date on which the board of township 64074
trustees intends to adopt the resolution. 64075

(2) The board of county commissioners, by resolution adopted 64076
by a majority of the board, may object to the exemption for the 64077
number of years in excess of ten, may object to the exemption for 64078
the percentage of the improvement to be exempted in excess of 64079
seventy-five per cent, or both. If the board of county 64080
commissioners objects, the board may negotiate a mutually 64081
acceptable compensation agreement with the board of township 64082
trustees. In no case shall the compensation provided to the board 64083
of county commissioners exceed the property taxes foregone due to 64084
the exemption. If the board of county commissioners objects, and 64085
the board of county commissioners and board of township trustees 64086
fail to negotiate a mutually acceptable compensation agreement, 64087
the resolution adopted under division (C)(1) of this section shall 64088
provide to the board of county commissioners compensation in the 64089
eleventh and subsequent years of the exemption period equal in 64090
value to not more than fifty per cent of the taxes that would be 64091
payable to the county or, if the board of county commissioner's 64092
objection includes an objection to an exemption percentage in 64093
excess of seventy-five per cent, compensation equal in value to 64094
not more than fifty per cent of the taxes that would be payable to 64095
the county, on the portion of the improvement in excess of 64096
seventy-five per cent, were that portion to be subject to 64097
taxation. The board of county commissioners shall certify its 64098

resolution to the board of township trustees not later than thirty 64099
days after receipt of the notice. 64100

(3) If the board of county commissioners does not object or 64101
fails to certify its resolution objecting to an exemption within 64102
thirty days after receipt of the notice, the board of township 64103
trustees may adopt its resolution, and no compensation shall be 64104
provided to the board of county commissioners. If the board of 64105
county commissioners timely certifies its resolution objecting to 64106
the trustees' resolution, the board of township trustees may adopt 64107
its resolution at any time after a mutually acceptable 64108
compensation agreement is agreed to by the board of county 64109
commissioners and the board of township trustees, or, if no 64110
compensation agreement is negotiated, at any time after the board 64111
of township trustees agrees in the proposed resolution to provide 64112
compensation to the board of county commissioners of fifty per 64113
cent of the taxes that would be payable to the county in the 64114
eleventh and subsequent years of the exemption period or on the 64115
portion of the improvement in excess of seventy-five per cent, 64116
were that portion to be subject to taxation. 64117

(F) Service payments in lieu of taxes that are attributable 64118
to any amount by which the effective tax rate of either a renewal 64119
levy with an increase or a replacement levy exceeds the effective 64120
tax rate of the levy renewed or replaced, or that are attributable 64121
to an additional levy, for a levy authorized by the voters for any 64122
of the following purposes on or after January 1, 2006, and which 64123
are provided pursuant to a resolution creating an incentive 64124
district under division (C)(1) of this section that is adopted on 64125
or after January 1, 2006, shall be distributed to the appropriate 64126
taxing authority as required under division (C) of section 5709.74 64127
of the Revised Code in an amount equal to the amount of taxes from 64128
that additional levy or from the increase in the effective tax 64129
rate of such renewal or replacement levy that would have been 64130

payable to that taxing authority from the following levies were it 64131
not for the exemption authorized under division (C) of this 64132
section: 64133

(1) A tax levied under division (L) of section 5705.19 or 64134
section 5705.191 of the Revised Code for community mental 64135
retardation and developmental disabilities programs and services 64136
pursuant to Chapter 5126. of the Revised Code; 64137

(2) A tax levied under division (Y) of section 5705.19 of the 64138
Revised Code for providing or maintaining senior citizens services 64139
or facilities; 64140

(3) A tax levied under section 5705.22 of the Revised Code 64141
for county hospitals; 64142

(4) A tax levied by a joint-county district or by a county 64143
under section 5705.19, 5705.191, or 5705.221 of the Revised Code 64144
for alcohol, drug addiction, and mental health services or 64145
families; 64146

(5) A tax levied under section 5705.23 of the Revised Code 64147
for library purposes; 64148

(6) A tax levied under section 5705.24 of the Revised Code 64149
for the support of children services and the placement and care of 64150
children; 64151

(7) A tax levied under division (Z) of section 5705.19 of the 64152
Revised Code for the provision and maintenance of zoological park 64153
services and facilities under section 307.76 of the Revised Code; 64154

(8) A tax levied under section 511.27 or division (H) of 64155
section 5705.19 of the Revised Code for the support of township 64156
park districts; 64157

(9) A tax levied under division (A), (F), or (H) of section 64158
5705.19 of the Revised Code for parks and recreational purposes of 64159
a joint recreation district organized pursuant to division (B) of 64160

section 755.14 of the Revised Code; 64161

(10) A tax levied under section 1545.20 or 1545.21 of the 64162
Revised Code for park district purposes; 64163

(11) A tax levied under section 5705.191 of the Revised Code 64164
for the purpose of making appropriations for public assistance; 64165
human or social services; public relief; public welfare; public 64166
health and hospitalization; and support of general hospitals; 64167

(12) A tax levied under section 3709.29 of the Revised Code 64168
for a general health district program. 64169

(G) An exemption from taxation granted under this section 64170
commences with the tax year specified in the resolution so long as 64171
the year specified in the resolution commences after the effective 64172
date of the resolution. If the resolution specifies a year 64173
commencing before the effective date of the resolution or 64174
specifies no year whatsoever, the exemption commences with the tax 64175
year in which an exempted improvement first appears on the tax 64176
list and duplicate of real and public utility property and that 64177
commences after the effective date of the resolution. Except as 64178
otherwise provided in this division, the exemption ends on the 64179
date specified in the resolution as the date the improvement 64180
ceases to be a public purpose or the incentive district expires, 64181
or ends on the date on which the public infrastructure 64182
improvements and housing renovations are paid in full from the 64183
township public improvement tax increment equivalent fund 64184
established under section 5709.75 of the Revised Code, whichever 64185
occurs first. The exemption of an improvement with respect to a 64186
parcel or within an incentive district may end on a later date, as 64187
specified in the resolution, if the board of township trustees and 64188
the board of education of the city, local, or exempted village 64189
school district within which the parcel or district is located 64190
have entered into a compensation agreement under section 5709.82 64191
of the Revised Code with respect to the improvement and the board 64192

of education has approved the term of the exemption under division 64193
(D) of this section, but in no case shall the improvement be 64194
exempted from taxation for more than thirty years. The board of 64195
township trustees may, by majority vote, adopt a resolution 64196
permitting the township to enter into such agreements as the board 64197
finds necessary or appropriate to provide for the construction or 64198
undertaking of public infrastructure improvements and housing 64199
renovations. Any exemption shall be claimed and allowed in the 64200
same or a similar manner as in the case of other real property 64201
exemptions. If an exemption status changes during a tax year, the 64202
procedure for the apportionment of the taxes for that year is the 64203
same as in the case of other changes in tax exemption status 64204
during the year. 64205

(H) The board of township trustees may issue the notes of the 64206
township to finance all costs pertaining to the construction or 64207
undertaking of public infrastructure improvements and housing 64208
renovations made pursuant to this section. The notes shall be 64209
signed by the board and attested by the signature of the township 64210
fiscal officer, shall bear interest not to exceed the rate 64211
provided in section 9.95 of the Revised Code, and are not subject 64212
to Chapter 133. of the Revised Code. The resolution authorizing 64213
the issuance of the notes shall pledge the funds of the township 64214
public improvement tax increment equivalent fund established 64215
pursuant to section 5709.75 of the Revised Code to pay the 64216
interest on and principal of the notes. The notes, which may 64217
contain a clause permitting prepayment at the option of the board, 64218
shall be offered for sale on the open market or given to the 64219
vendor or contractor if no sale is made. 64220

(I) The township, not later than fifteen days after the 64221
adoption of a resolution under this section, shall submit to the 64222
director of development a copy of the resolution. On or before the 64223
thirty-first day of March of each year, the township shall submit 64224

a status report to the director of development. The report shall 64225
indicate, in the manner prescribed by the director, the progress 64226
of the project during each year that the exemption remains in 64227
effect, including a summary of the receipts from service payments 64228
in lieu of taxes; expenditures of money from the fund created 64229
under section 5709.75 of the Revised Code; a description of the 64230
public infrastructure improvements and housing renovations 64231
financed with the expenditures; and a quantitative summary of 64232
changes in private investment resulting from each project. 64233

(J) Nothing in this section shall be construed to prohibit a 64234
board of township trustees from declaring to be a public purpose 64235
improvements with respect to more than one parcel. 64236

(K) A board of township trustees that adopted a resolution 64237
under this section prior to July 21, 1994, may amend that 64238
resolution to include any additional public infrastructure 64239
improvement. A board of township trustees that seeks by the 64240
amendment to utilize money from its township public improvement 64241
tax increment equivalent fund for land acquisition in aid of 64242
industry, commerce, distribution, or research, demolition on 64243
private property, or stormwater and flood remediation projects may 64244
do so provided that the board currently is a party to a 64245
hold-harmless agreement with the board of education of the city, 64246
local, or exempted village school district within the territory of 64247
which are located the parcels that are subject to an exemption. 64248
For the purposes of this division, a "hold-harmless agreement" 64249
means an agreement under which the board of township trustees 64250
agrees to compensate the school district for one hundred per cent 64251
of the tax revenue that the school district would have received 64252
from further improvements to parcels designated in the resolution 64253
were it not for the exemption granted by the resolution. 64254

(L) With respect to improvements resulting from projects, for 64255
which construction commences on or after April 1, 2012, and on or 64256

before December 31, 2013, and for which an exemption has been or 64257
will be sought pursuant to a resolution adopted under this section 64258
before December 14, 2001, "property used or to be used for 64259
residential purposes," as used in division (A)(2) of this section, 64260
means only that property that, as improved, the tax commissioner 64261
would classify as residential land and improvements pursuant to 64262
rules adopted by the tax commissioner under section 5713.041 of 64263
the Revised Code. 64264

Sec. 5709.75. (A) Any township that receives service payments 64265
in lieu of taxes under section 5709.74 of the Revised Code shall 64266
establish a township public improvement tax increment equivalent 64267
fund into which those payments shall be deposited. If the board of 64268
township trustees has adopted a resolution under division (C) of 64269
section 5709.73 of the Revised Code, the township shall establish 64270
at least one account in that fund with respect to resolutions 64271
adopted under division (B) of that section, and one account with 64272
respect to each incentive district created by a resolution adopted 64273
under division (C) of that section. If a resolution adopted under 64274
division (C) of section 5709.73 of the Revised Code also 64275
authorizes the use of service payments for housing renovations 64276
within the incentive district, the township shall establish 64277
separate accounts for the service payments designated for public 64278
infrastructure improvements and for the service payments 64279
authorized for the purpose of housing renovations. 64280

(B) Except as otherwise provided in division (C) or (D) of 64281
this section, money deposited in an account of the township public 64282
improvement tax increment equivalent fund shall be used by the 64283
township to pay the costs of public infrastructure improvements 64284
designated in or the housing renovations authorized by the 64285
resolution with respect to which the account is established, 64286
including any interest on and principal of the notes; in the case 64287
of an account established with respect to a resolution adopted 64288

under division (C) of that section, money in the account shall be 64289
used to finance the public infrastructure improvements designated, 64290
or the housing renovations authorized, for each incentive district 64291
created in the resolution. Money in an account shall not be used 64292
to finance or support housing renovations that take place after 64293
the incentive district has expired. 64294

(C)(1)(a) A township may distribute money in such an account 64295
to any school district in which the exempt property is located in 64296
an amount not to exceed the amount of real property taxes that 64297
such school district would have received from the improvement if 64298
it were not exempt from taxation. The resolution establishing the 64299
fund shall set forth the percentage of such maximum amount that 64300
will be distributed to any affected school district. 64301

(b) A township also may distribute money in such an account 64302
as follows: 64303

(i) To a board of county commissioners, in the amount that is 64304
owed to the board pursuant to division (E) of section 5709.73 of 64305
the Revised Code; 64306

(ii) To a county in accordance with section 5709.913 of the 64307
Revised Code. 64308

(2) Money from an account in a township public improvement 64309
tax increment equivalent fund may be distributed under division 64310
(C)(1)(b) of this section, regardless of the date a resolution was 64311
adopted under section 5709.73 of the Revised Code that prompted 64312
the establishment of the account, even if the resolution was 64313
adopted prior to March 30, 2006. 64314

(D) A board of township trustees that adopted a resolution 64315
under ~~division (B)~~ of section 5709.73 of the Revised Code before 64316
January 1, ~~1995~~ 2011, and that, with respect to property exempted 64317
under such a resolution, is party to a hold-harmless or service 64318
agreement, may appropriate and expend unencumbered money in the 64319

fund to pay current public safety expenses of the township. A 64320
township appropriating and expending money under this division 64321
shall reimburse the fund for the sum so appropriated and expended 64322
not later than the day the exemption granted under the resolution 64323
expires. For the purposes of this division, a "hold-harmless 64324
agreement" is an agreement with the board of education of a city, 64325
local, or exempted village school district under which the board 64326
of township trustees agrees to compensate the school district for 64327
one hundred per cent of the tax revenue the school district would 64328
have received from improvements to parcels designated in the 64329
resolution were it not for the exemption granted by the 64330
resolution. For the purposes of this division, a "service 64331
agreement" is an agreement with the board of education of a city,
local, or exempted village school district under which the board
of township trustees agrees to compensate the school district for
a portion of the tax revenue the school district would have
received from improvements to parcels designated in the resolution
if not for the exemption granted by the resolution. 64337

(E) Any incidental surplus remaining in the township public 64338
improvement tax increment equivalent fund or an account of that 64339
fund upon dissolution of the account or fund shall be transferred 64340
to the general fund of the township. 64341

Sec. 5713.012. (A) For purposes of this section: 64342

(1) "Mass appraisal project" means any sexennial reappraisal,
triennial update, or other revaluation of all real property or the
valuation of newly constructed real property in accordance with
section 5713.01 of the Revised Code. 64346

(2) "Qualified project manager" means a person who plans,
manages, coordinates, and controls the execution of a mass
appraisal project under the direction of the county auditor and
who has all of the following qualifications: 64350

(a) Has passed a comprehensive final examination that corresponds to a course, approved by the superintendent of real estate and professional licensing, that consists of at least thirty hours of instruction, quizzes, and learning aids. The superintendent shall not approve a course under this division that does not address the following topics in both the instruction and the examination:

(i) Concepts and principles of mass appraisal as they relate to the assessment of real property for the purposes of ad valorem taxation;

(ii) Methods of data collection and data management relative to parcels of real property, including modern alternative data collection methods and currently utilized computer-assisted mass appraisal systems;

(iii) Assessment sales-ratio study including various measures of central tendency, the various measures of dispersion of data about the mean, median, and dollar-weighted mean, and the advantages and disadvantages of various analysis techniques;

(iv) Traditional approaches of property valuation, including the cost approach, the sales comparison approach, and the income approach, as they are implemented in a mass appraisal project;

(v) Methods and systems for model building and model calibration as related to mass appraisal of real property;

(vi) Methods of production management and project analysis such as Gantt charts, program evaluation and review technique (PERT) charts, frequency distribution charts, line graphs, bar charts, and scatter diagrams, as they are utilized in the mass appraisal area.

(b) Has completed at least seven hours of continuing education courses in mass appraisal during the two-year period immediately succeeding the year in which the person passed the

examination required in division (A)(2)(a) of this section, and 64382
during each two-year period thereafter. 64383

(B)(1) The county auditor, in acting as the assessor of all 64384
real property in the auditor's county for taxation purposes in 64385
accordance with section 5713.01 of the Revised Code, shall involve 64386
at least one qualified project manager in each mass assessment 64387
project that originates more than two years after the effective 64388
date of the enactment of this section by H.B. 487 of the 129th 64389
general assembly. 64390

(2) The tax commissioner, beginning two years after the 64391
effective date of the enactment of this section by H.B. 487 of the 64392
129th general assembly, shall not approve any contract entered 64393
into by the auditor under division (E) of section 5713.01 of the 64394
Revised Code, with a person to do all or any part of the work 64395
necessary to the performance of the auditor's duties as assessor 64396
unless that person designates an officer or employee of that 64397
person, with the appropriate credentials, to act as a qualified 64398
project manager. 64399

(3) The tax commissioner, beginning two years after the 64400
effective date of the enactment of this section by H.B. 487 of the 64401
129th general assembly, shall not include any person that has not 64402
designated an officer or employee, with the appropriate 64403
credentials, to act as a qualified project manager on a list 64404
generated by the commissioner for either of the following 64405
purposes: 64406

(a) To assist county auditors in selecting a person to do all 64407
or any part of the work necessary to the performance of the 64408
auditor's duties as assessor of all real property under section 64409
5713.01 of the Revised Code; 64410

(b) To assist the commissioner in the consideration of 64411
whether to approve or disapprove the auditor's application 64412

requesting authority to employ an appraisal firm or individual 64413
appraiser. 64414

Sec. 5719.13. Taxes assessed on the shares of stock of a 64415
dealer in intangibles shall be a lien on such shares from the 64416
first day of January in each year until they are paid. Each dealer 64417
in intangibles shall collect the taxes due from the owners of such 64418
shares and pay remit the same to the tax commissioner, who shall 64419
accept the remittance on behalf of the treasurer of state. The 64420
remittance shall be made payable to the treasurer of state and 64421
shall be made in the form prescribed by the commissioner. Any 64422
dealer in intangibles who fails to pay said taxes as provided in 64423
this section shall be liable by way of penalty for the gross 64424
amount of the taxes due from all the owners of shares, and for an 64425
additional amount of one hundred dollars for each day of delay in 64426
the payment of said taxes. 64427

A dealer in intangibles who pays ~~to the treasurer of state~~ 64428
the taxes assessed upon its shares in the hands of its 64429
shareholders, as provided in this section, may deduct the amount 64430
thereof from dividends or distributions that are due or thereafter 64431
become due on such shares, and shall have a lien on the shares of 64432
stock and all funds belonging to such shareholders in its 64433
possession, or which come into its possession, for reimbursement 64434
of such tax paid on account of the shareholders, with legal 64435
interest. Such lien may be enforced in any appropriate manner. 64436

Sec. 5725.14. (A) As used in this section and section 5725.15 64437
of the Revised Code: 64438

(1) "Billing address" of a customer means one of the 64439
following: 64440

(a) The customer's address as set forth in any notice, 64441
statement, bill, or similar acknowledgment shall be presumed to be 64442

the address where the customer is located with respect to the 64443
transaction for which the dealer issued the notice, statement, 64444
bill, or acknowledgment. 64445

(b) If the dealer issues any notice, statement, bill, or 64446
similar acknowledgment electronically to an address other than a 64447
street address or post office box address or if the dealer does 64448
not issue such a notice, statement, bill, or acknowledgment, the 64449
customer's street address as set forth in the records of the 64450
dealer at the time of the transaction shall be presumed to be the 64451
address where the customer is located. 64452

(2) "Commissions" includes but is not limited to brokerage 64453
commissions, asset management fees, and similar fees charged in 64454
the regular course of business to a customer for the maintenance 64455
and management of the customer's account. 64456

(3) "Gross receipts" means one of the following: 64457

(a) In the case of a dealer in intangibles principally 64458
engaged in the business of lending money or discounting loans, the 64459
aggregate amount of loans effected or discounted; 64460

(b) In the case of a dealer in intangibles principally 64461
engaged in the business of selling or buying stocks, bonds, or 64462
other similar securities either on the dealer's own account or as 64463
agent for another, the aggregate amount of all commissions 64464
charged. 64465

(B) Each dealer in intangibles shall return to the tax 64466
commissioner between the first and second Mondays of March, 64467
annually for return years prior to 2014, a report exhibiting in 64468
detail, and under appropriate heads, the dealer's resources and 64469
liabilities at the close of business on the thirty-first day of 64470
December next preceding, together with remittance made payable to 64471
the treasurer of state of the tax levied under division (D) of 64472
section 5707.03 of the Revised Code. In the case of an 64473

unincorporated dealer in intangibles, such report shall also 64474
exhibit the amount or value as of the date of conversion of all 64475
property within the year preceding the date of listing, and on or 64476
after the first day of November converted into bonds or other 64477
securities not taxed to the extent such nontaxable bonds or 64478
securities may be shown in the dealer's resources on such date, 64479
without deduction for indebtedness created in the purchase of such 64480
nontaxable bonds or securities. 64481

If a dealer in intangibles maintains separate business 64482
offices, whether within this state only or within and without this 64483
state, the report shall also show the gross receipts from business 64484
done at each such office during the year ending on the 64485
thirty-first day of December next preceding. 64486

For the purposes of this section and section 5725.15 of the 64487
Revised Code, business is considered done at an office when it 64488
originates at such office, but the receipts from business 64489
originating at one office and consummated at another office shall 64490
be divided equitably between such offices. 64491

(C) For the purposes of this section and section 5725.15 of 64492
the Revised Code, in the case of a dealer in intangibles 64493
principally engaged in the business of selling or buying stocks, 64494
bonds, or other similar securities either on the dealer's own 64495
account or as agent for another, the dealer's capital, surplus, 64496
and undivided profits employed in this state shall bear the same 64497
ratio to the dealer's total capital, surplus, and undivided 64498
profits employed everywhere as the amount described in division 64499
(C)(1) of this section bears to the amount described in division 64500
(C)(2) of this section: 64501

(1) The sum of the commissions earned during the year covered 64502
by the ~~report~~ return from transactions with respect to brokerage 64503
accounts owned by customers having billing addresses in this 64504
state; 64505

(2) The sum of the commissions earned during that year from 64506
transactions with respect to brokerage accounts owned by all of 64507
the dealer's customers. 64508

(D) An incorporated dealer in intangibles which owns or 64509
controls fifty-one per cent or more of the common stock of another 64510
incorporated dealer in intangibles may, under uniform regulations 64511
prescribed by the tax commissioner, make a consolidated return for 64512
the purpose of sections 5725.01 to 5725.26, ~~inclusive,~~ of the 64513
Revised Code. In such case the parent corporation making such 64514
return is not required to include in its resources any of the 64515
stocks, securities, or other obligations of its subsidiary 64516
dealers, nor permitted to include in its liabilities any of its 64517
own securities or other obligations belonging to its subsidiaries. 64518

Sec. 5725.15. ~~Upon receiving the~~ The report required by 64519
section 5725.14 of the Revised Code, ~~the tax commissioner~~ shall 64520
~~ascertain and assess~~ include as taxable property all the shares of 64521
~~such dealers~~ the dealer in intangibles, the capital stock of which 64522
is divided into shares, representing capital employed in this 64523
state, and the value of the property representing the capital, not 64524
divided into shares, employed in this state by such dealer in 64525
intangibles, according to the aggregate fair value of the capital, 64526
surplus, and undivided profits as shown in such report, including 64527
in the case of an unincorporated dealer, the value of property 64528
converted into nontaxable bonds or securities within the preceding 64529
year, without deduction for indebtedness created in the purchase 64530
of such nontaxable bonds or securities. 64531

The filing by a dealer of the report required by section 64532
5725.14 of the Revised Code shall be the preliminary assessment of 64533
the shares and property listed therein. 64534

If a dealer has separate offices, whether within this state 64535
only or within and without this state, the ~~commissioner~~ dealer 64536

shall ~~find~~ list the amount of capital employed in each office in 64537
this state, which shall bear the same ratio to the entire capital 64538
of such dealer, wherever employed, as the gross receipts of such 64539
office bears to the entire gross receipts of such dealer, wherever 64540
arising. 64541

The aggregate book value of the capital, surplus, and 64542
undivided profits of a dealer in intangibles as shown in such 64543
report shall be taken as the fair value thereof for the purpose of 64544
the assessment required by this section, unless the commissioner 64545
finds that such book value is greater or less than the then fair 64546
value of said capital, surplus, and undivided profits. Claim for 64547
any deduction from book value of capital, surplus, and undivided 64548
profits must be made in writing by the dealer in intangibles at 64549
the time of making ~~his~~ the dealer's return. 64550

Whenever the commissioner assesses the fair value of the 64551
capital, surplus, and undivided profits of a dealer in intangibles 64552
at an amount in excess of the ~~book~~ value thereof as ~~shown by its~~ 64553
~~report, or disallows any claim for deduction from book value of~~ 64554
~~such capital, surplus, and undivided profits~~ listed in the 64555
dealer's report, or assesses the shares or property of a dealer 64556
that fails to file a return, he the commissioner shall give notice 64557
and proceed as provided in section 5711.31 of the Revised Code. 64558

Sec. 5725.16. On or before the first Monday of May, annually 64559
for return years prior to 2014, the tax commissioner shall certify 64560
to the treasurer of state the assessment of the shares or property 64561
representing capital, or apportionment of either, of each dealer 64562
in intangibles doing business in the state, showing separately the 64563
amount representing capital employed in each county. 64564

The treasurer of state shall place the amounts certified on 64565
the intangible property tax list in ~~his~~ the treasurer of state's 64566
office in the names of the dealers represented by those 64567

certificates. 64568

~~Any certificate of abatement issued pursuant to section 5703.05 of the Revised Code for the overpayment of the tax on shares or property representing capital of a~~ The commissioner shall collect, on behalf of the treasurer, the taxes due on the assessments certified pursuant to this section, together with any applicable penalties or interest, in the manner prescribed by section 5725.22 of the Revised Code. The commissioner shall immediately forward to the treasurer any payments received under this section or section 5719.13 of the Revised Code. The treasurer shall credit all such payments against the appropriate amounts on the intangible property tax list in the treasurer's office. 64569
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~~A dealer in intangibles may be tendered by the payee or transferee thereof to the treasurer of state as payment for any taxes allocable to the county in which the claim for a refund of any overpayment arose of the tax levied under division (D) of section 5707.03 of the Revised Code by filing an application for final assessment in accordance with section 5711.26 of the Revised Code.~~ 64580
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Sec. 5725.17. (A) In addition to any other penalty imposed by this chapter or Chapter 5703. of the Revised Code, the following penalties shall apply: 64587
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(1) If a dealer in intangibles fails to make and furnish to the tax commissioner the report required by section 5725.14 of the Revised Code, within the time fixed by that section, a penalty shall be imposed equal to the greater of fifty dollars per month or fraction of a month, not to exceed five hundred dollars, or five per cent per month or fraction of a month, not to exceed fifty per cent, of the tax required to be shown on the report, for each month or fraction of a month elapsing between the due date, including extensions of the due date, and the date on which the 64590
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report is filed. 64599

(2) If a dealer in intangibles fails to pay any amounts of 64600
the tax levied by division (D) of section 5707.03 of the Revised 64601
Code by the dates prescribed for payment, a penalty shall be 64602
imposed equal to the greater of the penalty due under division 64603
(~~C~~)(F) of section 5725.22 of the Revised Code, for which this 64604
penalty shall be a substitute, or two times the interest charged 64605
under section 5725.221 of the Revised Code for the delinquent 64606
payment. 64607

(3) If a dealer in intangibles submits a report required by 64608
section 5725.14 of the Revised Code that is marked, defaced, or 64609
otherwise designed by the dealer to be a frivolous protest or an 64610
attempt to delay or impede the administration of the tax levied by 64611
division (D) of section 5707.03 of the Revised Code, a penalty 64612
shall be imposed equal to the greater of one hundred dollars or 64613
twenty-five per cent of the tax required to be shown on the 64614
report. 64615

(4) If a dealer in intangibles makes a fraudulent attempt to 64616
evade the reporting or payment of the tax levied by division (D) 64617
of section 5707.03 of the Revised Code, a penalty shall be imposed 64618
equal to the greater of one thousand dollars or one hundred per 64619
cent of the tax required to be shown on the report required by 64620
section 5725.14 of the Revised Code. 64621

(5) If any person makes a false or fraudulent claim for 64622
abatement or refund of the tax levied by division (D) of section 64623
5707.03 of the Revised Code, a penalty shall be imposed equal to 64624
the greater of one thousand dollars or one hundred per cent of the 64625
claim. The penalty imposed by this division, any abatement or 64626
refund on the claim, and interest on any refund from the date of 64627
the refund, may be assessed under section 5725.15 of the Revised 64628
Code or added by the ~~treasurer of state~~ tax commissioner as tax, 64629
penalty, and interest due from the tax levied by division (D) of 64630

section 5707.03 of the Revised Code, without regard to whether the person making the claim is otherwise subject to the tax, and without regard to any time limitation for assessment.

(B) Each penalty imposed under division (A) of this section shall be in addition to any other penalty imposed under that division. All or part of any penalty imposed under division (A) of this section may be abated by the commissioner ~~or the treasurer of state, as appropriate.~~

Sec. 5725.22. (A) The treasurer of state shall maintain an intangible property tax list of taxes levied by section 5707.03 of the Revised Code and certified by the tax commissioner pursuant to sections 5711.13, 5725.08, 5725.16, and 5727.15 of the Revised Code, and a separate list of taxes levied by section 5725.18 of the Revised Code and certified by the superintendent of insurance pursuant to section 5725.20 of the Revised Code. ~~Upon receipt of any assessment certified to him~~

(B)(1) With respect to taxes levied under section 5725.18 of the Revised Code, the treasurer of state, upon receipt of an assessment, shall compute the taxes at the rates prescribed by law and enter the taxes on the proper tax list. ~~He~~ The treasurer shall collect, and the taxpayer shall pay, all such taxes and any interest applicable thereto. Payments may be made by mail, in person, or by any other means authorized by the treasurer of state. The treasurer ~~of state~~ shall render a daily itemized statement to the ~~tax commissioner~~ superintendent of insurance of the amount of taxes collected and the name of the domestic insurance company ~~or assessment certificate number of the person~~ from whom collected. The treasurer of state may adopt rules concerning the methods and timeliness of ~~payment~~ payments under this division.

(2) With respect to taxes levied under section 5707.03 of the

Revised Code, any assessment certified to the treasurer of state 64662
shall reflect the taxes computed at the rates prescribed by law. 64663
Upon receipt of such an assessment, the treasurer shall enter the 64664
taxes on the proper tax list. The tax commissioner shall collect, 64665
and the taxpayer shall pay, all such taxes and any interest 64666
applicable thereto. Payments may be made by mail, in person, or by 64667
any other means authorized by the commissioner. The commissioner 64668
shall immediately forward to the treasurer any payments received 64669
under this division, together with any information necessary for 64670
the treasurer to properly credit such payments. The commissioner 64671
may adopt rules concerning the method and timeliness of payments 64672
under this division. 64673

(C) Each tax bill issued pursuant to this section shall 64674
separately reflect the taxes due, interest, if any, due date, and 64675
any other information considered necessary. The last day on which 64676
payment may be made without penalty shall be at least twenty but 64677
not more than thirty days from the date of mailing the tax bill. 64678
The treasurer of state or tax commissioner, as appropriate, shall 64679
mail the tax bill, and the mailing thereof shall be prima-facie 64680
evidence of receipt thereof by the taxpayer. 64681

The treasurer ~~of state~~ or commissioner, as appropriate, shall 64682
refund taxes as provided in this section, but no refund shall be 64683
made to a taxpayer having a delinquent claim certified pursuant to 64684
this section that remains unpaid. The treasurer ~~of state~~ or 64685
commissioner may consult the attorney general regarding such 64686
claims. Refunds shall be paid from the tax refund fund created by 64687
section 5703.052 of the Revised Code. 64688

~~(A)(D)(1)~~ Within twenty days after receipt of any preliminary 64689
~~assessment certified to him~~ of taxes levied under section 5725.18 64690
of the Revised Code, the treasurer of state shall issue a tax 64691
bill, but if such preliminary assessment reflects a late filed tax 64692
return, the treasurer of state shall add interest as provided in 64693

division (A) of section 5725.221 of the Revised Code and issue a tax bill.

~~(B)(2)~~ Within twenty days after receipt of any amended or final assessment ~~certified to him~~ of taxes levied under section 5725.18 of the Revised Code, the treasurer of state shall ascertain the difference between the total taxes computed on such assessment and the total taxes computed on the most recent assessment certified for the same tax year. If the difference is a deficiency, the treasurer of state shall add interest as provided in division (B)(1) of section 5725.221 of the Revised Code and issue a tax bill. If the difference is an excess, the treasurer of state shall add interest as provided in division (B)(2) of section 5725.221 of the Revised Code and certify the name of the taxpayer and the amount to be refunded to the director of budget and management for payment to the taxpayer. If the taxpayer has a deficiency for one tax year and an excess for another tax year, or any combination thereof for more than two tax years, the treasurer of state may determine the net result after adding interest, if applicable, and, depending on such result, proceed to mail a tax bill or certify a refund.

~~(C)(E)(1)~~ Except as provided in division (E)(2) of this section, within twenty days after certifying to the treasurer of state an amended or final assessment, or a preliminary assessment of a dealer in intangibles that has failed to file a report or disclose taxable property, the tax commissioner shall ascertain the difference between the total taxes computed on such assessment and the total taxes computed on the most recent assessment certified for the same tax year, if any. If the difference is a deficiency, the commissioner shall add interest as provided in division (B)(1) of section 5725.221 of the Revised Code and issue a tax bill. If the difference is an excess, the commissioner shall add interest as provided in division (B)(2) of section 5725.221 of

the Revised Code and certify the name of the taxpayer and the 64726
amount to be refunded to the director of budget and management for 64727
payment to the taxpayer. If the taxpayer has a deficiency for one 64728
tax year and excess for another tax year, or any combination 64729
thereof for more than two tax years, the commissioner may 64730
determine the net result after adding interest, if applicable, 64731
and, depending on such result, proceed to mail a tax bill or 64732
certify a refund. 64733

(2) The tax commissioner may issue a tax bill for any 64734
deficiency resulting from an assessment at the time the 64735
commissioner issues the assessment. 64736

(F) If a taxpayer fails to pay all taxes and interest, if 64737
any, on or before the due date shown on the tax bill but makes 64738
payment within ten calendar days of such date, the treasurer of 64739
state or tax commissioner, as appropriate, shall add a penalty 64740
equal to five per cent of the taxes due. If payment is not made 64741
within ten days of such date, the treasurer ~~of state~~ or 64742
commissioner shall add a penalty equal to ten per cent of the 64743
taxes due. The treasurer ~~of state~~ or commissioner shall prepare a 64744
delinquent claim for each tax bill on which penalties were added 64745
and certify such claims to the attorney general for collection. 64746
The attorney general shall transmit a copy of each claim certified 64747
by the treasurer to the ~~tax commissioner~~ or the superintendent of 64748
insurance ~~and~~. For each claim certified by the treasurer or 64749
commissioner, the attorney general shall proceed to collect the 64750
delinquent taxes, penalties, and interest thereon in the manner 64751
prescribed by law. 64752

Sec. 5725.221. For the purposes of this section, interest 64753
shall be computed at a rate per calendar month, rounded to the 64754
nearest one-hundredth of one per cent, equal to one-twelfth of the 64755
rate per annum prescribed by section 5703.47 of the Revised Code 64756

for the calendar year that includes the month for which the 64757
interest accrues. 64758

(A) When taxes levied by section 3737.71, 5707.03, or 5725.18 64759
of the Revised Code are assessed as the result of a tax return 64760
being filed late, the treasurer of state or tax commissioner, as 64761
appropriate, shall add interest to the taxes due. The interest 64762
shall accrue from the first day of the month following the last 64763
day on which such taxes were required to be paid, had the 64764
assessment been certified by the date prescribed, to the last day 64765
of the month preceding the date on which the assessment was 64766
certified, and shall be computed on the taxes due. 64767

(B) If an assessment has been certified pursuant to section 64768
5711.13, 5725.08, 5725.16, 5725.20, or 5725.222 of the Revised 64769
Code and an amended or final assessment is certified for the same 64770
taxpayer and the same tax year, the treasurer of state or tax 64771
commissioner, as appropriate, shall add interest to the deficiency 64772
or excess. The interest shall be computed on the excess or 64773
deficiency, and shall be accrued in the following manner: 64774

(1) On a deficiency, interest shall accrue from the first day 64775
of the month following the last day on which the previous 64776
assessment was required to be paid, to the last day of the month 64777
preceding the date on which the amended or final assessment is 64778
certified; 64779

(2) On an excess, interest shall be allowed from the first 64780
day of the month following the date of payment of the previous 64781
assessment, to the last day of the month preceding the date on 64782
which the amended or final assessment is certified. 64783

Sec. 5731.39. (A) No corporation organized or existing under 64784
the laws of this state shall transfer on its books or issue a new 64785
certificate for any share of its capital stock registered in the 64786
name of a decedent, or in trust for a decedent, or in the name of 64787

a decedent and another person or persons, without the written 64788
consent of the tax commissioner. 64789

(B) No safe deposit company, trust company, financial 64790
institution as defined in division (A) of section 5725.01 of the 64791
Revised Code or other corporation or person, having in possession, 64792
control, or custody a deposit standing in the name of a decedent, 64793
or in trust for a decedent, or in the name of a decedent and 64794
another person or persons, shall deliver or transfer an amount in 64795
excess of three-fourths of the total value of such deposit, 64796
including accrued interest and dividends, as of the date of 64797
decedent's death, without the written consent of the tax 64798
commissioner. The written consent of the tax commissioner need not 64799
be obtained prior to the delivery or transfer of amounts having a 64800
value of three-fourths or less of said total value. 64801

(C) No life insurance company shall pay the proceeds of an 64802
annuity or matured endowment contract, or of a life insurance 64803
contract payable to the estate of a decedent, or of any other 64804
insurance contract taxable under Chapter 5731. of the Revised 64805
Code, without the written consent of the tax commissioner. Any 64806
life insurance company may pay the proceeds of any insurance 64807
contract not specified in this division (C) without the written 64808
consent of the tax commissioner. 64809

(D) No trust company or other corporation or person shall pay 64810
the proceeds of any death benefit, retirement, pension or profit 64811
sharing plan in excess of two thousand dollars, without the 64812
written consent of the tax commissioner. Such trust company or 64813
other corporation or person, however, may pay the proceeds of any 64814
death benefit, retirement, pension, or profit-sharing plan which 64815
consists of insurance on the life of the decedent payable to a 64816
beneficiary other than the estate of the insured without the 64817
written consent of the tax commissioner. 64818

(E) No safe deposit company, trust company, financial 64819

institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation or person, having in possession, control, or custody securities, assets, or other property (including the shares of the capital stock of, or other interest in, such safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation), standing in the name of a decedent, or in trust for a decedent, or in the name of a decedent and another person or persons, and the transfer of which is taxable under Chapter 5731. of the Revised Code, shall deliver or transfer any such securities, assets, or other property which have a value as of the date of decedent's death in excess of three-fourths of the total value thereof, without the written consent of the tax commissioner. The written consent of the tax commissioner need not be obtained prior to the delivery or transfer of any such securities, assets, or other property having a value of three-fourths or less of said total value.

(F) No safe deposit company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation or person having possession or control of a safe deposit box or similar receptacle standing in the name of a decedent or in the name of the decedent and another person or persons, or to which the decedent had a right of access, except when such safe deposit box or other receptacle stands in the name of a corporation or partnership, or in the name of the decedent as guardian or executor, shall deliver any of the contents thereof unless the safe deposit box or similar receptacle has been opened and inventoried in the presence of the tax commissioner or the commissioner's agent, and a written consent to transfer issued; provided, however, that a safe deposit company, financial institution, or other corporation or person having possession or control of a safe deposit box may deliver wills, deeds to burial lots, and insurance policies to a representative of the decedent,

but that a representative of the safe deposit company, financial 64853
institution, or other corporation or person must supervise the 64854
opening of the box and make a written record of the wills, deeds, 64855
and policies removed. Such written record shall be included in the 64856
tax commissioner's inventory records. 64857

(G) Notwithstanding any provision of this section: 64858

(1) The tax commissioner may authorize any delivery or 64859
transfer or waive any of the foregoing requirements under such 64860
terms and conditions as the commissioner may prescribe; 64861

(2) ~~An adult care facility, as defined in section 5119.70 of~~ 64862
~~the Revised Code, or a A home, as defined in section 3721.10 of~~ 64863
the Revised Code, or a residential facility licensed under section 64864
5119.22 of the Revised Code that provides accommodations, 64865
supervision, and personal care services for three to sixteen 64866
unrelated adults, may transfer or use the money in a personal 64867
needs allowance account in accordance with section 5111.113 of the 64868
Revised Code without the written consent of the tax commissioner, 64869
and without the account having been opened and inventoried in the 64870
presence of the commissioner or the commissioner's agent. 64871

Failure to comply with this section shall render such safe 64872
deposit company, trust company, life insurance company, financial 64873
institution as defined in division (A) of section 5725.01 of the 64874
Revised Code, or other corporation or person liable for the amount 64875
of the taxes and interest due under the provisions of Chapter 64876
5731. of the Revised Code on the transfer of such stock, deposit, 64877
proceeds of an annuity or matured endowment contract or of a life 64878
insurance contract payable to the estate of a decedent, or other 64879
insurance contract taxable under Chapter 5731. of the Revised 64880
Code, proceeds of any death benefit, retirement, pension, or 64881
profit sharing plan in excess of two thousand dollars, or 64882
securities, assets, or other property of any resident decedent, 64883
and in addition thereto, to a penalty of not less than five 64884

hundred or more than five thousand dollars. 64885

Sec. 5733.064. There is hereby allowed a credit against the 64886
tax imposed under sections 5733.06, 5733.065, and 5733.066 of the 64887
Revised Code. The credit shall equal the lesser of fifty per cent 64888
of any cash donations made during the taxable year by the taxpayer 64889
to an Ohio corporation organized prior to January 1, 1987, whose 64890
sole purpose is to promote and encourage recycling and that has 64891
been determined by the internal revenue service to be a nonprofit 64892
corporation regardless of whether the nonprofit corporation 64893
received a grant under section ~~1502.05~~ 3736.05 of the Revised 64894
Code, or to municipal corporations, counties, townships, park 64895
districts, and boards of education that received grants pursuant 64896
to that section, or one-half of the amount of the taxpayer's 64897
additional tax liability for the tax year resulting from the 64898
additional rates imposed by sections 5733.065 and 5733.066 of the 64899
Revised Code to provide funding for ~~the division of~~ recycling and 64900
litter prevention under Chapter ~~1502-~~ 3736. of the Revised Code. 64901
The taxpayer shall claim the nonrefundable credit in the order 64902
required under section 5733.98 of the Revised Code. 64903

The tax commissioner may require the taxpayer to furnish such 64904
information as is necessary to support a claim for a credit under 64905
this section, and no credit shall be allowed unless the 64906
information is provided. 64907

Sec. 5739.01. As used in this chapter: 64908

(A) "Person" includes individuals, receivers, assignees, 64909
trustees in bankruptcy, estates, firms, partnerships, 64910
associations, joint-stock companies, joint ventures, clubs, 64911
societies, corporations, the state and its political subdivisions, 64912
and combinations of individuals of any form. 64913

(B) "Sale" and "selling" include all of the following 64914

transactions for a consideration in any manner, whether absolutely 64915
or conditionally, whether for a price or rental, in money or by 64916
exchange, and by any means whatsoever: 64917

(1) All transactions by which title or possession, or both, 64918
of tangible personal property, is or is to be transferred, or a 64919
license to use or consume tangible personal property is or is to 64920
be granted; 64921

(2) All transactions by which lodging by a hotel is or is to 64922
be furnished to transient guests; 64923

(3) All transactions by which: 64924

(a) An item of tangible personal property is or is to be 64925
repaired, except property, the purchase of which would not be 64926
subject to the tax imposed by section 5739.02 of the Revised Code; 64927

(b) An item of tangible personal property is or is to be 64928
installed, except property, the purchase of which would not be 64929
subject to the tax imposed by section 5739.02 of the Revised Code 64930
or property that is or is to be incorporated into and will become 64931
a part of a production, transmission, transportation, or 64932
distribution system for the delivery of a public utility service; 64933

(c) The service of washing, cleaning, waxing, polishing, or 64934
painting a motor vehicle is or is to be furnished; 64935

(d) Until August 1, 2003, industrial laundry cleaning 64936
services are or are to be provided and, on and after August 1, 64937
2003, laundry and dry cleaning services are or are to be provided; 64938

(e) Automatic data processing, computer services, or 64939
electronic information services are or are to be provided for use 64940
in business when the true object of the transaction is the receipt 64941
by the consumer of automatic data processing, computer services, 64942
or electronic information services rather than the receipt of 64943
personal or professional services to which automatic data 64944

processing, computer services, or electronic information services 64945
are incidental or supplemental. Notwithstanding any other 64946
provision of this chapter, such transactions that occur between 64947
members of an affiliated group are not sales. An "affiliated 64948
group" means two or more persons related in such a way that one 64949
person owns or controls the business operation of another member 64950
of the group. In the case of corporations with stock, one 64951
corporation owns or controls another if it owns more than fifty 64952
per cent of the other corporation's common stock with voting 64953
rights. 64954

(f) Telecommunications service, including prepaid calling 64955
service, prepaid wireless calling service, or ancillary service, 64956
is or is to be provided, but not including coin-operated telephone 64957
service; 64958

(g) Landscaping and lawn care service is or is to be 64959
provided; 64960

(h) Private investigation and security service is or is to be 64961
provided; 64962

(i) Information services or tangible personal property is 64963
provided or ordered by means of a nine hundred telephone call; 64964

(j) Building maintenance and janitorial service is or is to 64965
be provided; 64966

(k) Employment service is or is to be provided; 64967

(l) Employment placement service is or is to be provided; 64968

(m) Exterminating service is or is to be provided; 64969

(n) Physical fitness facility service is or is to be 64970
provided; 64971

(o) Recreation and sports club service is or is to be 64972
provided; 64973

(p) On and after August 1, 2003, satellite broadcasting 64974

service is or is to be provided; 64975

(q) On and after August 1, 2003, personal care service is or 64976
is to be provided to an individual. As used in this division, 64977
"personal care service" includes skin care, the application of 64978
cosmetics, manicuring, pedicuring, hair removal, tattooing, body 64979
piercing, tanning, massage, and other similar services. "Personal 64980
care service" does not include a service provided by or on the 64981
order of a licensed physician or licensed chiropractor, or the 64982
cutting, coloring, or styling of an individual's hair. 64983

(r) On and after August 1, 2003, the transportation of 64984
persons by motor vehicle or aircraft is or is to be provided, when 64985
the transportation is entirely within this state, except for 64986
transportation provided by an ambulance service, by a transit bus, 64987
as defined in section 5735.01 of the Revised Code, and 64988
transportation provided by a citizen of the United States holding 64989
a certificate of public convenience and necessity issued under 49 64990
U.S.C. 41102; 64991

(s) On and after August 1, 2003, motor vehicle towing service 64992
is or is to be provided. As used in this division, "motor vehicle 64993
towing service" means the towing or conveyance of a wrecked, 64994
disabled, or illegally parked motor vehicle. 64995

(t) On and after August 1, 2003, snow removal service is or 64996
is to be provided. As used in this division, "snow removal 64997
service" means the removal of snow by any mechanized means, but 64998
does not include the providing of such service by a person that 64999
has less than five thousand dollars in sales of such service 65000
during the calendar year. 65001

(u) Electronic publishing service is or is to be provided to 65002
a consumer for use in business, except that such transactions 65003
occurring between members of an affiliated group, as defined in 65004
division (B)(3)(e) of this section, are not sales. 65005

(4) All transactions by which printed, imprinted, 65006
overprinted, lithographic, multilithic, blueprinted, photostatic, 65007
or other productions or reproductions of written or graphic matter 65008
are or are to be furnished or transferred; 65009

(5) The production or fabrication of tangible personal 65010
property for a consideration for consumers who furnish either 65011
directly or indirectly the materials used in the production of 65012
fabrication work; and include the furnishing, preparing, or 65013
serving for a consideration of any tangible personal property 65014
consumed on the premises of the person furnishing, preparing, or 65015
serving such tangible personal property. Except as provided in 65016
section 5739.03 of the Revised Code, a construction contract 65017
pursuant to which tangible personal property is or is to be 65018
incorporated into a structure or improvement on and becoming a 65019
part of real property is not a sale of such tangible personal 65020
property. The construction contractor is the consumer of such 65021
tangible personal property, provided that the sale and 65022
installation of carpeting, the sale and installation of 65023
agricultural land tile, the sale and erection or installation of 65024
portable grain bins, or the provision of landscaping and lawn care 65025
service and the transfer of property as part of such service is 65026
never a construction contract. 65027

As used in division (B)(5) of this section: 65028

(a) "Agricultural land tile" means fired clay or concrete 65029
tile, or flexible or rigid perforated plastic pipe or tubing, 65030
incorporated or to be incorporated into a subsurface drainage 65031
system appurtenant to land used or to be used primarily in 65032
production by farming, agriculture, horticulture, or floriculture. 65033
The term does not include such materials when they are or are to 65034
be incorporated into a drainage system appurtenant to a building 65035
or structure even if the building or structure is used or to be 65036
used in such production. 65037

(b) "Portable grain bin" means a structure that is used or to be used by a person engaged in farming or agriculture to shelter the person's grain and that is designed to be disassembled without significant damage to its component parts.

(6) All transactions in which all of the shares of stock of a closely held corporation are transferred, if the corporation is not engaging in business and its entire assets consist of boats, planes, motor vehicles, or other tangible personal property operated primarily for the use and enjoyment of the shareholders;

(7) All transactions in which a warranty, maintenance or service contract, or similar agreement by which the vendor of the warranty, contract, or agreement agrees to repair or maintain the tangible personal property of the consumer is or is to be provided;

(8) The transfer of copyrighted motion picture films used solely for advertising purposes, except that the transfer of such films for exhibition purposes is not a sale;

(9) On and after August 1, 2003, all transactions by which tangible personal property is or is to be stored, except such property that the consumer of the storage holds for sale in the regular course of business;

(10) All transactions in which "guaranteed auto protection" is provided whereby a person promises to pay to the consumer the difference between the amount the consumer receives from motor vehicle insurance and the amount the consumer owes to a person holding title to or a lien on the consumer's motor vehicle in the event the consumer's motor vehicle suffers a total loss under the terms of the motor vehicle insurance policy or is stolen and not recovered, if the protection and its price are included in the purchase or lease agreement;

(11)(a) Except as provided in division (B)(11)(b) of this

section, on and after October 1, 2009, all transactions by which 65069
health care services are paid for, reimbursed, provided, 65070
delivered, arranged for, or otherwise made available by a medicaid 65071
health insuring corporation pursuant to the corporation's contract 65072
with the state. 65073

(b) If the centers for medicare and medicaid services of the 65074
United States department of health and human services determines 65075
that the taxation of transactions described in division (B)(11)(a) 65076
of this section constitutes an impermissible health care-related 65077
tax under section 1903(w) of the "Social Security Act," 49 Stat. 65078
620 (1935), 42 U.S.C. 1396b(w), as amended, and regulations 65079
adopted thereunder, the director of job and family services shall 65080
notify the tax commissioner of that determination. Beginning with 65081
the first day of the month following that notification, the 65082
transactions described in division (B)(11)(a) of this section are 65083
not sales for the purposes of this chapter or Chapter 5741. of the 65084
Revised Code. The tax commissioner shall order that the collection 65085
of taxes under sections 5739.02, 5739.021, 5739.023, 5739.026, 65086
5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code 65087
shall cease for transactions occurring on or after that date. 65088

Except as provided in this section, "sale" and "selling" do 65089
not include transfers of interest in leased property where the 65090
original lessee and the terms of the original lease agreement 65091
remain unchanged, or professional, insurance, or personal service 65092
transactions that involve the transfer of tangible personal 65093
property as an inconsequential element, for which no separate 65094
charges are made. 65095

(C) "Vendor" means the person providing the service or by 65096
whom the transfer effected or license given by a sale is or is to 65097
be made or given and, for sales described in division (B)(3)(i) of 65098
this section, the telecommunications service vendor that provides 65099
the nine hundred telephone service; if two or more persons are 65100

engaged in business at the same place of business under a single 65101
trade name in which all collections on account of sales by each 65102
are made, such persons shall constitute a single vendor. 65103

Physicians, dentists, hospitals, and veterinarians who are 65104
engaged in selling tangible personal property as received from 65105
others, such as eyeglasses, mouthwashes, dentifrices, or similar 65106
articles, are vendors. Veterinarians who are engaged in 65107
transferring to others for a consideration drugs, the dispensing 65108
of which does not require an order of a licensed veterinarian or 65109
physician under federal law, are vendors. 65110

(D)(1) "Consumer" means the person for whom the service is 65111
provided, to whom the transfer effected or license given by a sale 65112
is or is to be made or given, to whom the service described in 65113
division (B)(3)(f) or (i) of this section is charged, or to whom 65114
the admission is granted. 65115

(2) Physicians, dentists, hospitals, and blood banks operated 65116
by nonprofit institutions and persons licensed to practice 65117
veterinary medicine, surgery, and dentistry are consumers of all 65118
tangible personal property and services purchased by them in 65119
connection with the practice of medicine, dentistry, the rendition 65120
of hospital or blood bank service, or the practice of veterinary 65121
medicine, surgery, and dentistry. In addition to being consumers 65122
of drugs administered by them or by their assistants according to 65123
their direction, veterinarians also are consumers of drugs that 65124
under federal law may be dispensed only by or upon the order of a 65125
licensed veterinarian or physician, when transferred by them to 65126
others for a consideration to provide treatment to animals as 65127
directed by the veterinarian. 65128

(3) A person who performs a facility management, or similar 65129
service contract for a contractee is a consumer of all tangible 65130
personal property and services purchased for use in connection 65131
with the performance of such contract, regardless of whether title 65132

to any such property vests in the contractee. The purchase of such 65133
property and services is not subject to the exception for resale 65134
under division (E)(1) of this section. 65135

(4)(a) In the case of a person who purchases printed matter 65136
for the purpose of distributing it or having it distributed to the 65137
public or to a designated segment of the public, free of charge, 65138
that person is the consumer of that printed matter, and the 65139
purchase of that printed matter for that purpose is a sale. 65140

(b) In the case of a person who produces, rather than 65141
purchases, printed matter for the purpose of distributing it or 65142
having it distributed to the public or to a designated segment of 65143
the public, free of charge, that person is the consumer of all 65144
tangible personal property and services purchased for use or 65145
consumption in the production of that printed matter. That person 65146
is not entitled to claim exemption under division (B)(42)(f) of 65147
section 5739.02 of the Revised Code for any material incorporated 65148
into the printed matter or any equipment, supplies, or services 65149
primarily used to produce the printed matter. 65150

(c) The distribution of printed matter to the public or to a 65151
designated segment of the public, free of charge, is not a sale to 65152
the members of the public to whom the printed matter is 65153
distributed or to any persons who purchase space in the printed 65154
matter for advertising or other purposes. 65155

(5) A person who makes sales of any of the services listed in 65156
division (B)(3) of this section is the consumer of any tangible 65157
personal property used in performing the service. The purchase of 65158
that property is not subject to the resale exception under 65159
division (E)(1) of this section. 65160

(6) A person who engages in highway transportation for hire 65161
is the consumer of all packaging materials purchased by that 65162
person and used in performing the service, except for packaging 65163

materials sold by such person in a transaction separate from the 65164
service. 65165

(7) In the case of a transaction for health care services 65166
under division (B)(11) of this section, a medicaid health insuring 65167
corporation is the consumer of such services. The purchase of such 65168
services by a medicaid health insuring corporation is not subject 65169
to the exception for resale under division (E)(1) of this section 65170
or to the exemptions provided under divisions (B)(12), (18), (19), 65171
and (22) of section 5739.02 of the Revised Code. 65172

(E) "Retail sale" and "sales at retail" include all sales, 65173
except those in which the purpose of the consumer is to resell the 65174
thing transferred or benefit of the service provided, by a person 65175
engaging in business, in the form in which the same is, or is to 65176
be, received by the person. 65177

(F) "Business" includes any activity engaged in by any person 65178
with the object of gain, benefit, or advantage, either direct or 65179
indirect. "Business" does not include the activity of a person in 65180
managing and investing the person's own funds. 65181

(G) "Engaging in business" means commencing, conducting, or 65182
continuing in business, and liquidating a business when the 65183
liquidator thereof holds itself out to the public as conducting 65184
such business. Making a casual sale is not engaging in business. 65185

(H)(1)(a) "Price," except as provided in divisions (H)(2), 65186
(3), and (4) of this section, means the total amount of 65187
consideration, including cash, credit, property, and services, for 65188
which tangible personal property or services are sold, leased, or 65189
rented, valued in money, whether received in money or otherwise, 65190
without any deduction for any of the following: 65191

(i) The vendor's cost of the property sold; 65192

(ii) The cost of materials used, labor or service costs, 65193
interest, losses, all costs of transportation to the vendor, all 65194

taxes imposed on the vendor, including the tax imposed under 65195
Chapter 5751. of the Revised Code, and any other expense of the 65196
vendor; 65197

(iii) Charges by the vendor for any services necessary to 65198
complete the sale; 65199

(iv) On and after August 1, 2003, delivery charges. As used 65200
in this division, "delivery charges" means charges by the vendor 65201
for preparation and delivery to a location designated by the 65202
consumer of tangible personal property or a service, including 65203
transportation, shipping, postage, handling, crating, and packing. 65204

(v) Installation charges; 65205

(vi) Credit for any trade-in. 65206

(b) "Price" includes consideration received by the vendor 65207
from a third party, if the vendor actually receives the 65208
consideration from a party other than the consumer, and the 65209
consideration is directly related to a price reduction or discount 65210
on the sale; the vendor has an obligation to pass the price 65211
reduction or discount through to the consumer; the amount of the 65212
consideration attributable to the sale is fixed and determinable 65213
by the vendor at the time of the sale of the item to the consumer; 65214
and one of the following criteria is met: 65215

(i) The consumer presents a coupon, certificate, or other 65216
document to the vendor to claim a price reduction or discount 65217
where the coupon, certificate, or document is authorized, 65218
distributed, or granted by a third party with the understanding 65219
that the third party will reimburse any vendor to whom the coupon, 65220
certificate, or document is presented; 65221

(ii) The consumer identifies the consumer's self to the 65222
seller as a member of a group or organization entitled to a price 65223
reduction or discount. A preferred customer card that is available 65224
to any patron does not constitute membership in such a group or 65225

organization. 65226

(iii) The price reduction or discount is identified as a 65227
third party price reduction or discount on the invoice received by 65228
the consumer, or on a coupon, certificate, or other document 65229
presented by the consumer. 65230

(c) "Price" does not include any of the following: 65231

(i) Discounts, including cash, term, or coupons that are not 65232
reimbursed by a third party that are allowed by a vendor and taken 65233
by a consumer on a sale; 65234

(ii) Interest, financing, and carrying charges from credit 65235
extended on the sale of tangible personal property or services, if 65236
the amount is separately stated on the invoice, bill of sale, or 65237
similar document given to the purchaser; 65238

(iii) Any taxes legally imposed directly on the consumer that 65239
are separately stated on the invoice, bill of sale, or similar 65240
document given to the consumer. For the purpose of this division, 65241
the tax imposed under Chapter 5751. of the Revised Code is not a 65242
tax directly on the consumer, even if the tax or a portion thereof 65243
is separately stated. 65244

(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this 65245
section, any discount allowed by an automobile manufacturer to its 65246
employee, or to the employee of a supplier, on the purchase of a 65247
new motor vehicle from a new motor vehicle dealer in this state. 65248

(v) The dollar value of a gift card that is not sold by a 65249
vendor or purchased by a consumer and that is redeemed by the 65250
consumer in purchasing tangible personal property or services if 65251
the vendor is not reimbursed and does not receive compensation 65252
from a third party to cover all or part of the gift card value. 65253
For the purposes of this division, a gift card is not sold by a 65254
vendor or purchased by a consumer if it is distributed pursuant to 65255
an awards, loyalty, or promotional program. Past and present 65256

purchases of tangible personal property or services by the 65257
consumer shall not be treated as consideration exchanged for a 65258
gift card. 65259

(2) In the case of a sale of any new motor vehicle by a new 65260
motor vehicle dealer, as defined in section 4517.01 of the Revised 65261
Code, in which another motor vehicle is accepted by the dealer as 65262
part of the consideration received, "price" has the same meaning 65263
as in division (H)(1) of this section, reduced by the credit 65264
afforded the consumer by the dealer for the motor vehicle received 65265
in trade. 65266

(3) In the case of a sale of any watercraft or outboard motor 65267
by a watercraft dealer licensed in accordance with section 65268
1547.543 of the Revised Code, in which another watercraft, 65269
watercraft and trailer, or outboard motor is accepted by the 65270
dealer as part of the consideration received, "price" has the same 65271
meaning as in division (H)(1) of this section, reduced by the 65272
credit afforded the consumer by the dealer for the watercraft, 65273
watercraft and trailer, or outboard motor received in trade. As 65274
used in this division, "watercraft" includes an outdrive unit 65275
attached to the watercraft. 65276

(4) In the case of transactions for health care services 65277
under division (B)(11) of this section, "price" means the amount 65278
of managed care premiums received each month by a medicaid health 65279
insuring corporation. 65280

(I) "Receipts" means the total amount of the prices of the 65281
sales of vendors, provided that the dollar value of gift cards 65282
distributed pursuant to an awards, loyalty, or promotional 65283
program, and cash discounts allowed and taken on sales at the time 65284
they are consummated are not included, minus any amount deducted 65285
as a bad debt pursuant to section 5739.121 of the Revised Code. 65286
"Receipts" does not include the sale price of property returned or 65287
services rejected by consumers when the full sale price and tax 65288

are refunded either in cash or by credit. 65289

(J) "Place of business" means any location at which a person 65290
engages in business. 65291

(K) "Premises" includes any real property or portion thereof 65292
upon which any person engages in selling tangible personal 65293
property at retail or making retail sales and also includes any 65294
real property or portion thereof designated for, or devoted to, 65295
use in conjunction with the business engaged in by such person. 65296

(L) "Casual sale" means a sale of an item of tangible 65297
personal property that was obtained by the person making the sale, 65298
through purchase or otherwise, for the person's own use and was 65299
previously subject to any state's taxing jurisdiction on its sale 65300
or use, and includes such items acquired for the seller's use that 65301
are sold by an auctioneer employed directly by the person for such 65302
purpose, provided the location of such sales is not the 65303
auctioneer's permanent place of business. As used in this 65304
division, "permanent place of business" includes any location 65305
where such auctioneer has conducted more than two auctions during 65306
the year. 65307

(M) "Hotel" means every establishment kept, used, maintained, 65308
advertised, or held out to the public to be a place where sleeping 65309
accommodations are offered to guests, in which five or more rooms 65310
are used for the accommodation of such guests, whether the rooms 65311
are in one or several structures, except as otherwise provided in 65312
division (G) of section 5739.09 of the Revised Code. 65313

(N) "Transient guests" means persons occupying a room or 65314
rooms for sleeping accommodations for less than thirty consecutive 65315
days. 65316

(O) "Making retail sales" means the effecting of transactions 65317
wherein one party is obligated to pay the price and the other 65318
party is obligated to provide a service or to transfer title to or 65319

possession of the item sold. "Making retail sales" does not 65320
include the preliminary acts of promoting or soliciting the retail 65321
sales, other than the distribution of printed matter which 65322
displays or describes and prices the item offered for sale, nor 65323
does it include delivery of a predetermined quantity of tangible 65324
personal property or transportation of property or personnel to or 65325
from a place where a service is performed, regardless of whether 65326
the vendor is a delivery vendor. 65327

(P) "Used directly in the rendition of a public utility 65328
service" means that property that is to be incorporated into and 65329
will become a part of the consumer's production, transmission, 65330
transportation, or distribution system and that retains its 65331
classification as tangible personal property after such 65332
incorporation; fuel or power used in the production, transmission, 65333
transportation, or distribution system; and tangible personal 65334
property used in the repair and maintenance of the production, 65335
transmission, transportation, or distribution system, including 65336
only such motor vehicles as are specially designed and equipped 65337
for such use. Tangible personal property and services used 65338
primarily in providing highway transportation for hire are not 65339
used directly in the rendition of a public utility service. In 65340
this definition, "public utility" includes a citizen of the United 65341
States holding, and required to hold, a certificate of public 65342
convenience and necessity issued under 49 U.S.C. 41102. 65343

(Q) "Refining" means removing or separating a desirable 65344
product from raw or contaminated materials by distillation or 65345
physical, mechanical, or chemical processes. 65346

(R) "Assembly" and "assembling" mean attaching or fitting 65347
together parts to form a product, but do not include packaging a 65348
product. 65349

(S) "Manufacturing operation" means a process in which 65350
materials are changed, converted, or transformed into a different 65351

state or form from which they previously existed and includes 65352
refining materials, assembling parts, and preparing raw materials 65353
and parts by mixing, measuring, blending, or otherwise committing 65354
such materials or parts to the manufacturing process. 65355

"Manufacturing operation" does not include packaging. 65356

(T) "Fiscal officer" means, with respect to a regional 65357
transit authority, the secretary-treasurer thereof, and with 65358
respect to a county that is a transit authority, the fiscal 65359
officer of the county transit board if one is appointed pursuant 65360
to section 306.03 of the Revised Code or the county auditor if the 65361
board of county commissioners operates the county transit system. 65362

(U) "Transit authority" means a regional transit authority 65363
created pursuant to section 306.31 of the Revised Code or a county 65364
in which a county transit system is created pursuant to section 65365
306.01 of the Revised Code. For the purposes of this chapter, a 65366
transit authority must extend to at least the entire area of a 65367
single county. A transit authority that includes territory in more 65368
than one county must include all the area of the most populous 65369
county that is a part of such transit authority. County population 65370
shall be measured by the most recent census taken by the United 65371
States census bureau. 65372

(V) "Legislative authority" means, with respect to a regional 65373
transit authority, the board of trustees thereof, and with respect 65374
to a county that is a transit authority, the board of county 65375
commissioners. 65376

(W) "Territory of the transit authority" means all of the 65377
area included within the territorial boundaries of a transit 65378
authority as they from time to time exist. Such territorial 65379
boundaries must at all times include all the area of a single 65380
county or all the area of the most populous county that is a part 65381
of such transit authority. County population shall be measured by 65382
the most recent census taken by the United States census bureau. 65383

(X) "Providing a service" means providing or furnishing anything described in division (B)(3) of this section for consideration. 65384
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(Y)(1)(a) "Automatic data processing" means processing of others' data, including keypunching or similar data entry services together with verification thereof, or providing access to computer equipment for the purpose of processing data. 65387
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(b) "Computer services" means providing services consisting of specifying computer hardware configurations and evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems. 65391
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(c) "Electronic information services" means providing access to computer equipment by means of telecommunications equipment for the purpose of either of the following: 65397
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(i) Examining or acquiring data stored in or accessible to the computer equipment; 65400
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(ii) Placing data into the computer equipment to be retrieved by designated recipients with access to the computer equipment. 65402
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For transactions occurring on or after the effective date of the amendment of this section by H.B. 157 of the 127th general assembly, December 21, 2007, "electronic information services" does not include electronic publishing as defined in division (LLL) of this section. 65404
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(d) "Automatic data processing, computer services, or electronic information services" shall not include personal or professional services. 65409
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(2) As used in divisions (B)(3)(e) and (Y)(1) of this section, "personal and professional services" means all services 65412
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other than automatic data processing, computer services, or	65414
electronic information services, including but not limited to:	65415
(a) Accounting and legal services such as advice on tax	65416
matters, asset management, budgetary matters, quality control,	65417
information security, and auditing and any other situation where	65418
the service provider receives data or information and studies,	65419
alters, analyzes, interprets, or adjusts such material;	65420
(b) Analyzing business policies and procedures;	65421
(c) Identifying management information needs;	65422
(d) Feasibility studies, including economic and technical	65423
analysis of existing or potential computer hardware or software	65424
needs and alternatives;	65425
(e) Designing policies, procedures, and custom software for	65426
collecting business information, and determining how data should	65427
be summarized, sequenced, formatted, processed, controlled, and	65428
reported so that it will be meaningful to management;	65429
(f) Developing policies and procedures that document how	65430
business events and transactions are to be authorized, executed,	65431
and controlled;	65432
(g) Testing of business procedures;	65433
(h) Training personnel in business procedure applications;	65434
(i) Providing credit information to users of such information	65435
by a consumer reporting agency, as defined in the "Fair Credit	65436
Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or	65437
as hereafter amended, including but not limited to gathering,	65438
organizing, analyzing, recording, and furnishing such information	65439
by any oral, written, graphic, or electronic medium;	65440
(j) Providing debt collection services by any oral, written,	65441
graphic, or electronic means.	65442
The services listed in divisions (Y)(2)(a) to (j) of this	65443

section are not automatic data processing or computer services. 65444

(Z) "Highway transportation for hire" means the 65445
transportation of personal property belonging to others for 65446
consideration by any of the following: 65447

(1) The holder of a permit or certificate issued by this 65448
state or the United States authorizing the holder to engage in 65449
transportation of personal property belonging to others for 65450
consideration over or on highways, roadways, streets, or any 65451
similar public thoroughfare; 65452

(2) A person who engages in the transportation of personal 65453
property belonging to others for consideration over or on 65454
highways, roadways, streets, or any similar public thoroughfare 65455
but who could not have engaged in such transportation on December 65456
11, 1985, unless the person was the holder of a permit or 65457
certificate of the types described in division (Z)(1) of this 65458
section; 65459

(3) A person who leases a motor vehicle to and operates it 65460
for a person described by division (Z)(1) or (2) of this section. 65461

(AA)(1) "Telecommunications service" means the electronic 65462
transmission, conveyance, or routing of voice, data, audio, video, 65463
or any other information or signals to a point, or between or 65464
among points. "Telecommunications service" includes such 65465
transmission, conveyance, or routing in which computer processing 65466
applications are used to act on the form, code, or protocol of the 65467
content for purposes of transmission, conveyance, or routing 65468
without regard to whether the service is referred to as voice-over 65469
internet protocol service or is classified by the federal 65470
communications commission as enhanced or value-added. 65471
"Telecommunications service" does not include any of the 65472
following: 65473

(a) Data processing and information services that allow data 65474

to be generated, acquired, stored, processed, or retrieved and 65475
delivered by an electronic transmission to a consumer where the 65476
consumer's primary purpose for the underlying transaction is the 65477
processed data or information; 65478

(b) Installation or maintenance of wiring or equipment on a 65479
customer's premises; 65480

(c) Tangible personal property; 65481

(d) Advertising, including directory advertising; 65482

(e) Billing and collection services provided to third 65483
parties; 65484

(f) Internet access service; 65485

(g) Radio and television audio and video programming 65486
services, regardless of the medium, including the furnishing of 65487
transmission, conveyance, and routing of such services by the 65488
programming service provider. Radio and television audio and video 65489
programming services include, but are not limited to, cable 65490
service, as defined in 47 U.S.C. 522(6), and audio and video 65491
programming services delivered by commercial mobile radio service 65492
providers, as defined in 47 C.F.R. 20.3; 65493

(h) Ancillary service; 65494

(i) Digital products delivered electronically, including 65495
software, music, video, reading materials, or ring tones. 65496

(2) "Ancillary service" means a service that is associated 65497
with or incidental to the provision of telecommunications service, 65498
including conference bridging service, detailed telecommunications 65499
billing service, directory assistance, vertical service, and voice 65500
mail service. As used in this division: 65501

(a) "Conference bridging service" means an ancillary service 65502
that links two or more participants of an audio or video 65503
conference call, including providing a telephone number. 65504

"Conference bridging service" does not include telecommunications services used to reach the conference bridge. 65505
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(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement. 65507
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(c) "Directory assistance" means an ancillary service of providing telephone number or address information. 65510
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(d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and manage multiple calls and call connections, including conference bridging service. 65512
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(e) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service. 65517
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(3) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service, and which is typically marketed under the name "900" service and any subsequent numbers designated by the federal communications commission. "900 service" does not include the charge for collection services provided by the seller of the telecommunications service to the subscriber, or services or products sold by the subscriber to the subscriber's customer. 65522
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(4) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units of ~~of~~ or dollars of 65531
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which the number declines with use in a known amount. 65536

(5) "Prepaid wireless calling service" means a 65537
telecommunications service that provides the right to utilize 65538
mobile telecommunications service as well as other 65539
non-telecommunications services, including the download of digital 65540
products delivered electronically, and content and ancillary 65541
services, that must be paid for in advance and that is sold in 65542
predetermined units of ~~of~~ or dollars of which the number declines 65543
with use in a known amount. 65544

(6) "Value-added non-voice data service" means a 65545
telecommunications service in which computer processing 65546
applications are used to act on the form, content, code, or 65547
protocol of the information or data primarily for a purpose other 65548
than transmission, conveyance, or routing. 65549

(7) "Coin-operated telephone service" means a 65550
telecommunications service paid for by inserting money into a 65551
telephone accepting direct deposits of money to operate. 65552

(8) "Customer" has the same meaning as in section 5739.034 of 65553
the Revised Code. 65554

(BB) "Laundry and dry cleaning services" means removing soil 65555
or dirt from towels, linens, articles of clothing, or other fabric 65556
items that belong to others and supplying towels, linens, articles 65557
of clothing, or other fabric items. "Laundry and dry cleaning 65558
services" does not include the provision of self-service 65559
facilities for use by consumers to remove soil or dirt from 65560
towels, linens, articles of clothing, or other fabric items. 65561

(CC) "Magazines distributed as controlled circulation 65562
publications" means magazines containing at least twenty-four 65563
pages, at least twenty-five per cent editorial content, issued at 65564
regular intervals four or more times a year, and circulated 65565
without charge to the recipient, provided that such magazines are 65566

not owned or controlled by individuals or business concerns which 65567
conduct such publications as an auxiliary to, and essentially for 65568
the advancement of the main business or calling of, those who own 65569
or control them. 65570

(DD) "Landscaping and lawn care service" means the services 65571
of planting, seeding, sodding, removing, cutting, trimming, 65572
pruning, mulching, aerating, applying chemicals, watering, 65573
fertilizing, and providing similar services to establish, promote, 65574
or control the growth of trees, shrubs, flowers, grass, ground 65575
cover, and other flora, or otherwise maintaining a lawn or 65576
landscape grown or maintained by the owner for ornamentation or 65577
other nonagricultural purpose. However, "landscaping and lawn care 65578
service" does not include the providing of such services by a 65579
person who has less than five thousand dollars in sales of such 65580
services during the calendar year. 65581

(EE) "Private investigation and security service" means the 65582
performance of any activity for which the provider of such service 65583
is required to be licensed pursuant to Chapter 4749. of the 65584
Revised Code, or would be required to be so licensed in performing 65585
such services in this state, and also includes the services of 65586
conducting polygraph examinations and of monitoring or overseeing 65587
the activities on or in, or the condition of, the consumer's home, 65588
business, or other facility by means of electronic or similar 65589
monitoring devices. "Private investigation and security service" 65590
does not include special duty services provided by off-duty police 65591
officers, deputy sheriffs, and other peace officers regularly 65592
employed by the state or a political subdivision. 65593

(FF) "Information services" means providing conversation, 65594
giving consultation or advice, playing or making a voice or other 65595
recording, making or keeping a record of the number of callers, 65596
and any other service provided to a consumer by means of a nine 65597
hundred telephone call, except when the nine hundred telephone 65598

call is the means by which the consumer makes a contribution to a 65599
recognized charity. 65600

(GG) "Research and development" means designing, creating, or 65601
formulating new or enhanced products, equipment, or manufacturing 65602
processes, and also means conducting scientific or technological 65603
inquiry and experimentation in the physical sciences with the goal 65604
of increasing scientific knowledge which may reveal the bases for 65605
new or enhanced products, equipment, or manufacturing processes. 65606

(HH) "Qualified research and development equipment" means 65607
capitalized tangible personal property, and leased personal 65608
property that would be capitalized if purchased, used by a person 65609
primarily to perform research and development. Tangible personal 65610
property primarily used in testing, as defined in division (A)(4) 65611
of section 5739.011 of the Revised Code, or used for recording or 65612
storing test results, is not qualified research and development 65613
equipment unless such property is primarily used by the consumer 65614
in testing the product, equipment, or manufacturing process being 65615
created, designed, or formulated by the consumer in the research 65616
and development activity or in recording or storing such test 65617
results. 65618

(II) "Building maintenance and janitorial service" means 65619
cleaning the interior or exterior of a building and any tangible 65620
personal property located therein or thereon, including any 65621
services incidental to such cleaning for which no separate charge 65622
is made. However, "building maintenance and janitorial service" 65623
does not include the providing of such service by a person who has 65624
less than five thousand dollars in sales of such service during 65625
the calendar year. 65626

(JJ) "Employment service" means providing or supplying 65627
personnel, on a temporary or long-term basis, to perform work or 65628
labor under the supervision or control of another, when the 65629
personnel so provided or supplied receive their wages, salary, or 65630

other compensation from the provider or supplier of the employment 65631
service or from a third party that provided or supplied the 65632
personnel to the provider or supplier. "Employment service" does 65633
not include: 65634

(1) Acting as a contractor or subcontractor, where the 65635
personnel performing the work are not under the direct control of 65636
the purchaser. 65637

(2) Medical and health care services. 65638

(3) Supplying personnel to a purchaser pursuant to a contract 65639
of at least one year between the service provider and the 65640
purchaser that specifies that each employee covered under the 65641
contract is assigned to the purchaser on a permanent basis. 65642

(4) Transactions between members of an affiliated group, as 65643
defined in division (B)(3)(e) of this section. 65644

(5) Transactions where the personnel so provided or supplied 65645
by a provider or supplier to a purchaser of an employment service 65646
are then provided or supplied by that purchaser to a third party 65647
as an employment service, except "employment service" does include 65648
the transaction between that purchaser and the third party. 65649

(KK) "Employment placement service" means locating or finding 65650
employment for a person or finding or locating an employee to fill 65651
an available position. 65652

(LL) "Exterminating service" means eradicating or attempting 65653
to eradicate vermin infestations from a building or structure, or 65654
the area surrounding a building or structure, and includes 65655
activities to inspect, detect, or prevent vermin infestation of a 65656
building or structure. 65657

(MM) "Physical fitness facility service" means all 65658
transactions by which a membership is granted, maintained, or 65659
renewed, including initiation fees, membership dues, renewal fees, 65660

monthly minimum fees, and other similar fees and dues, by a 65661
physical fitness facility such as an athletic club, health spa, or 65662
gymnasium, which entitles the member to use the facility for 65663
physical exercise. 65664

(NN) "Recreation and sports club service" means all 65665
transactions by which a membership is granted, maintained, or 65666
renewed, including initiation fees, membership dues, renewal fees, 65667
monthly minimum fees, and other similar fees and dues, by a 65668
recreation and sports club, which entitles the member to use the 65669
facilities of the organization. "Recreation and sports club" means 65670
an organization that has ownership of, or controls or leases on a 65671
continuing, long-term basis, the facilities used by its members 65672
and includes an aviation club, gun or shooting club, yacht club, 65673
card club, swimming club, tennis club, golf club, country club, 65674
riding club, amateur sports club, or similar organization. 65675

(OO) "Livestock" means farm animals commonly raised for food, 65676
food production, or other agricultural purposes, including, but 65677
not limited to, cattle, sheep, goats, swine, poultry, and captive 65678
deer. "Livestock" does not include invertebrates, amphibians, 65679
reptiles, domestic pets, animals for use in laboratories or for 65680
exhibition, or other animals not commonly raised for food or food 65681
production. 65682

(PP) "Livestock structure" means a building or structure used 65683
exclusively for the housing, raising, feeding, or sheltering of 65684
livestock, and includes feed storage or handling structures and 65685
structures for livestock waste handling. 65686

(QQ) "Horticulture" means the growing, cultivation, and 65687
production of flowers, fruits, herbs, vegetables, sod, mushrooms, 65688
and nursery stock. As used in this division, "nursery stock" has 65689
the same meaning as in section 927.51 of the Revised Code. 65690

(RR) "Horticulture structure" means a building or structure 65691

used exclusively for the commercial growing, raising, or 65692
overwintering of horticultural products, and includes the area 65693
used for stocking, storing, and packing horticultural products 65694
when done in conjunction with the production of those products. 65695

(SS) "Newspaper" means an unbound publication bearing a title 65696
or name that is regularly published, at least as frequently as 65697
biweekly, and distributed from a fixed place of business to the 65698
public in a specific geographic area, and that contains a 65699
substantial amount of news matter of international, national, or 65700
local events of interest to the general public. 65701

(TT) "Professional racing team" means a person that employs 65702
at least twenty full-time employees for the purpose of conducting 65703
a motor vehicle racing business for profit. The person must 65704
conduct the business with the purpose of racing one or more motor 65705
racing vehicles in at least ten competitive professional racing 65706
events each year that comprise all or part of a motor racing 65707
series sanctioned by one or more motor racing sanctioning 65708
organizations. A "motor racing vehicle" means a vehicle for which 65709
the chassis, engine, and parts are designed exclusively for motor 65710
racing, and does not include a stock or production model vehicle 65711
that may be modified for use in racing. For the purposes of this 65712
division: 65713

(1) A "competitive professional racing event" is a motor 65714
vehicle racing event sanctioned by one or more motor racing 65715
sanctioning organizations, at which aggregate cash prizes in 65716
excess of eight hundred thousand dollars are awarded to the 65717
competitors. 65718

(2) "Full-time employee" means an individual who is employed 65719
for consideration for thirty-five or more hours a week, or who 65720
renders any other standard of service generally accepted by custom 65721
or specified by contract as full-time employment. 65722

(UU)(1) "Lease" or "rental" means any transfer of the 65723
possession or control of tangible personal property for a fixed or 65724
indefinite term, for consideration. "Lease" or "rental" includes 65725
future options to purchase or extend, and agreements described in 65726
26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where 65727
the amount of consideration may be increased or decreased by 65728
reference to the amount realized upon the sale or disposition of 65729
the property. "Lease" or "rental" does not include: 65730

(a) A transfer of possession or control of tangible personal 65731
property under a security agreement or a deferred payment plan 65732
that requires the transfer of title upon completion of the 65733
required payments; 65734

(b) A transfer of possession or control of tangible personal 65735
property under an agreement that requires the transfer of title 65736
upon completion of required payments and payment of an option 65737
price that does not exceed the greater of one hundred dollars or 65738
one per cent of the total required payments; 65739

(c) Providing tangible personal property along with an 65740
operator for a fixed or indefinite period of time, if the operator 65741
is necessary for the property to perform as designed. For purposes 65742
of this division, the operator must do more than maintain, 65743
inspect, or set-up the tangible personal property. 65744

(2) "Lease" and "rental," as defined in division (UU) of this 65745
section, shall not apply to leases or rentals that exist before 65746
June 26, 2003. 65747

(3) "Lease" and "rental" have the same meaning as in division 65748
(UU)(1) of this section regardless of whether a transaction is 65749
characterized as a lease or rental under generally accepted 65750
accounting principles, the Internal Revenue Code, Title XIII of 65751
the Revised Code, or other federal, state, or local laws. 65752

(VV) "Mobile telecommunications service" has the same meaning 65753

as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 65754
106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, 65755
on and after August 1, 2003, includes related fees and ancillary 65756
services, including universal service fees, detailed billing 65757
service, directory assistance, service initiation, voice mail 65758
service, and vertical services, such as caller ID and three-way 65759
calling. 65760

(WW) "Certified service provider" has the same meaning as in 65761
section 5740.01 of the Revised Code. 65762

(XX) "Satellite broadcasting service" means the distribution 65763
or broadcasting of programming or services by satellite directly 65764
to the subscriber's receiving equipment without the use of ground 65765
receiving or distribution equipment, except the subscriber's 65766
receiving equipment or equipment used in the uplink process to the 65767
satellite, and includes all service and rental charges, premium 65768
channels or other special services, installation and repair 65769
service charges, and any other charges having any connection with 65770
the provision of the satellite broadcasting service. 65771

(YY) "Tangible personal property" means personal property 65772
that can be seen, weighed, measured, felt, or touched, or that is 65773
in any other manner perceptible to the senses. For purposes of 65774
this chapter and Chapter 5741. of the Revised Code, "tangible 65775
personal property" includes motor vehicles, electricity, water, 65776
gas, steam, and prewritten computer software. 65777

(ZZ) "Direct mail" means printed material delivered or 65778
distributed by United States mail or other delivery service to a 65779
mass audience or to addressees on a mailing list provided by the 65780
consumer or at the direction of the consumer when the cost of the 65781
items are not billed directly to the recipients. "Direct mail" 65782
includes tangible personal property supplied directly or 65783
indirectly by the consumer to the direct mail vendor for inclusion 65784
in the package containing the printed material. "Direct mail" does 65785

not include multiple items of printed material delivered to a 65786
single address. 65787

(AAA) "Computer" means an electronic device that accepts 65788
information in digital or similar form and manipulates it for a 65789
result based on a sequence of instructions. 65790

(BBB) "Computer software" means a set of coded instructions 65791
designed to cause a computer or automatic data processing 65792
equipment to perform a task. 65793

(CCC) "Delivered electronically" means delivery of computer 65794
software from the seller to the purchaser by means other than 65795
tangible storage media. 65796

(DDD) "Prewritten computer software" means computer software, 65797
including prewritten upgrades, that is not designed and developed 65798
by the author or other creator to the specifications of a specific 65799
purchaser. The combining of two or more prewritten computer 65800
software programs or prewritten portions thereof does not cause 65801
the combination to be other than prewritten computer software. 65802
"Prewritten computer software" includes software designed and 65803
developed by the author or other creator to the specifications of 65804
a specific purchaser when it is sold to a person other than the 65805
purchaser. If a person modifies or enhances computer software of 65806
which the person is not the author or creator, the person shall be 65807
deemed to be the author or creator only of such person's 65808
modifications or enhancements. Prewritten computer software or a 65809
prewritten portion thereof that is modified or enhanced to any 65810
degree, where such modification or enhancement is designed and 65811
developed to the specifications of a specific purchaser, remains 65812
prewritten computer software; provided, however, that where there 65813
is a reasonable, separately stated charge or an invoice or other 65814
statement of the price given to the purchaser for the modification 65815
or enhancement, the modification or enhancement shall not 65816
constitute prewritten computer software. 65817

(EEE)(1) "Food" means substances, whether in liquid, 65818
concentrated, solid, frozen, dried, or dehydrated form, that are 65819
sold for ingestion or chewing by humans and are consumed for their 65820
taste or nutritional value. "Food" does not include alcoholic 65821
beverages, dietary supplements, soft drinks, or tobacco. 65822

(2) As used in division (EEE)(1) of this section: 65823

(a) "Alcoholic beverages" means beverages that are suitable 65824
for human consumption and contain one-half of one per cent or more 65825
of alcohol by volume. 65826

(b) "Dietary supplements" means any product, other than 65827
tobacco, that is intended to supplement the diet and that is 65828
intended for ingestion in tablet, capsule, powder, softgel, 65829
gelcap, or liquid form, or, if not intended for ingestion in such 65830
a form, is not represented as conventional food for use as a sole 65831
item of a meal or of the diet; that is required to be labeled as a 65832
dietary supplement, identifiable by the "supplement facts" box 65833
found on the label, as required by 21 C.F.R. 101.36; and that 65834
contains one or more of the following dietary ingredients: 65835

(i) A vitamin; 65836

(ii) A mineral; 65837

(iii) An herb or other botanical; 65838

(iv) An amino acid; 65839

(v) A dietary substance for use by humans to supplement the 65840
diet by increasing the total dietary intake; 65841

(vi) A concentrate, metabolite, constituent, extract, or 65842
combination of any ingredient described in divisions 65843
(EEE)(2)(b)(i) to (v) of this section. 65844

(c) "Soft drinks" means nonalcoholic beverages that contain 65845
natural or artificial sweeteners. "Soft drinks" does not include 65846
beverages that contain milk or milk products, soy, rice, or 65847

similar milk substitutes, or that contains greater than fifty per 65848
cent vegetable or fruit juice by volume. 65849

(d) "Tobacco" means cigarettes, cigars, chewing or pipe 65850
tobacco, or any other item that contains tobacco. 65851

(FFF) "Drug" means a compound, substance, or preparation, and 65852
any component of a compound, substance, or preparation, other than 65853
food, dietary supplements, or alcoholic beverages that is 65854
recognized in the official United States pharmacopoeia, official 65855
homeopathic pharmacopoeia of the United States, or official 65856
national formulary, and supplements to them; is intended for use 65857
in the diagnosis, cure, mitigation, treatment, or prevention of 65858
disease; or is intended to affect the structure or any function of 65859
the body. 65860

(GGG) "Prescription" means an order, formula, or recipe 65861
issued in any form of oral, written, electronic, or other means of 65862
transmission by a duly licensed practitioner authorized by the 65863
laws of this state to issue a prescription. 65864

(HHH) "Durable medical equipment" means equipment, including 65865
repair and replacement parts for such equipment, that can 65866
withstand repeated use, is primarily and customarily used to serve 65867
a medical purpose, generally is not useful to a person in the 65868
absence of illness or injury, and is not worn in or on the body. 65869
"Durable medical equipment" does not include mobility enhancing 65870
equipment. 65871

(III) "Mobility enhancing equipment" means equipment, 65872
including repair and replacement parts for such equipment, that is 65873
primarily and customarily used to provide or increase the ability 65874
to move from one place to another and is appropriate for use 65875
either in a home or a motor vehicle, that is not generally used by 65876
persons with normal mobility, and that does not include any motor 65877
vehicle or equipment on a motor vehicle normally provided by a 65878

motor vehicle manufacturer. "Mobility enhancing equipment" does 65879
not include durable medical equipment. 65880

(JJJ) "Prosthetic device" means a replacement, corrective, or 65881
supportive device, including repair and replacement parts for the 65882
device, worn on or in the human body to artificially replace a 65883
missing portion of the body, prevent or correct physical deformity 65884
or malfunction, or support a weak or deformed portion of the body. 65885
As used in this division, "prosthetic device" does not include 65886
corrective eyeglasses, contact lenses, or dental prosthesis. 65887

(KKK)(1) "Fractional aircraft ownership program" means a 65888
program in which persons within an affiliated group sell and 65889
manage fractional ownership program aircraft, provided that at 65890
least one hundred airworthy aircraft are operated in the program 65891
and the program meets all of the following criteria: 65892

(a) Management services are provided by at least one program 65893
manager within an affiliated group on behalf of the fractional 65894
owners. 65895

(b) Each program aircraft is owned or possessed by at least 65896
one fractional owner. 65897

(c) Each fractional owner owns or possesses at least a 65898
one-sixteenth interest in at least one fixed-wing program 65899
aircraft. 65900

(d) A dry-lease aircraft interchange arrangement is in effect 65901
among all of the fractional owners. 65902

(e) Multi-year program agreements are in effect regarding the 65903
fractional ownership, management services, and dry-lease aircraft 65904
interchange arrangement aspects of the program. 65905

(2) As used in division (KKK)(1) of this section: 65906

(a) "Affiliated group" has the same meaning as in division 65907
(B)(3)(e) of this section. 65908

(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK)(1)(e) of this section.

(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK)(1)(d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program.

(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK)(1)(e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program.

(e) "Program manager" means the person that offers management services to fractional owners pursuant to a management services agreement under division (KKK)(1)(e) of this section.

(LLL) "Electronic publishing" means providing access to one or more of the following primarily for business customers, including the federal government or a state government or a political subdivision thereof, to conduct research: news; business, financial, legal, consumer, or credit materials;

editorials, columns, reader commentary, or features; photos or 65941
images; archival or research material; legal notices, identity 65942
verification, or public records; scientific, educational, 65943
instructional, technical, professional, trade, or other literary 65944
materials; or other similar information which has been gathered 65945
and made available by the provider to the consumer in an 65946
electronic format. Providing electronic publishing includes the 65947
functions necessary for the acquisition, formatting, editing, 65948
storage, and dissemination of data or information that is the 65949
subject of a sale. 65950

(MMM) "Medicaid health insuring corporation" means a health 65951
insuring corporation that holds a certificate of authority under 65952
Chapter 1751. of the Revised Code and is under contract with the 65953
department of job and family services pursuant to section 5111.17 65954
of the Revised Code. 65955

(NNN) "Managed care premium" means any premium, capitation, 65956
or other payment a medicaid health insuring corporation receives 65957
for providing or arranging for the provision of health care 65958
services to its members or enrollees residing in this state. 65959

(OOO) "Captive deer" means deer and other cervidae that have 65960
been legally acquired, or their offspring, that are privately 65961
owned for agricultural or farming purposes. 65962

(PPP) "Gift card" means a document, card, certificate, or 65963
other record, whether tangible or intangible, that may be redeemed 65964
by a consumer for a dollar value when making a purchase of 65965
tangible personal property or services. 65966

Sec. 5743.03. (A) Except as provided in section 5743.04 of 65967
the Revised Code, the taxes imposed under sections 5743.02, 65968
5743.021, 5743.024, and 5743.026 of the Revised Code shall be paid 65969
by the purchase of stamps. A stamp shall be affixed to each 65970
package of an aggregate denomination not less than the amount of 65971

the tax upon the contents thereof. The stamp, so affixed, shall be prima-facie evidence of payment of the tax.

Except as is provided in the rules prescribed by the tax commissioner under authority of sections 5743.01 to 5743.20 of the Revised Code, and unless tax stamps have been previously affixed, they shall be so affixed by each wholesale dealer, and canceled by writing or stamping across the face thereof the number assigned to such wholesale dealer by the tax commissioner for that purpose, prior to the delivery of any cigarettes to any person in this state, or in the case of a tax levied pursuant to section 5743.021, 5743.024, or 5743.026 of the Revised Code, prior to the delivery of cigarettes to any person in the county in which the tax is levied.

(B) Except as provided in the rules prescribed by the commissioner under authority of sections 5743.01 to 5743.20 of the Revised Code, each retail dealer, within twenty-four hours after the receipt of any cigarettes at the retail dealer's place of business, shall inspect the cigarettes to ensure that tax stamps are affixed. The inspection shall be completed before the cigarettes are delivered to any person in this state, or, in the case of a tax levied pursuant to section 5743.021, 5743.024, or 5743.026 of the Revised Code, before the cigarettes are delivered to any person in the county in which the tax is levied.

(C) Whenever any cigarettes are found in the place of business of any retail dealer without proper tax stamps affixed thereto and canceled, it is presumed that such cigarettes are kept therein in violation of sections 5743.01 to 5743.20 of the Revised Code.

(D) Each wholesale dealer who purchases cigarettes without proper tax stamps affixed thereto shall, on or before the thirty-first day of the month following the close of each semiannual period, which period shall end on the thirtieth day of

June and the thirty-first day of December of each year, make and 66004
file a return of the preceding semiannual period, on such form as 66005
is prescribed by the tax commissioner, showing the dealer's entire 66006
purchases and sales of cigarettes and stamps or impressions for 66007
such semiannual period and accurate inventories as of the 66008
beginning and end of each semiannual period of cigarettes, stamped 66009
or unstamped; cigarette tax stamps affixed or unaffixed and unused 66010
meter impressions; and such other information as the commissioner 66011
finds necessary to the proper administration of sections 5743.01 66012
to 5743.20 of the Revised Code. The commissioner may extend the 66013
time for making and filing returns and may remit all or any part 66014
of amounts of penalties that may become due under sections 5743.01 66015
to 5743.20 of the Revised Code. The wholesale dealer shall deliver 66016
the return together with a remittance of the tax deficiency 66017
reported thereon to the treasurer of state. The treasurer of state 66018
shall stamp or otherwise mark on the return the date it was 66019
received and shall also show thereon by stamp or otherwise a 66020
payment or nonpayment of the deficiency shown by the return. 66021
Thereafter, the treasurer of state shall immediately transmit all 66022
returns filed under this section to the commissioner. 66023

(E) Any wholesale dealer who fails to file a return under 66024
this section and the rules of the commissioner, other than a 66025
report required pursuant to division (F) of this section, may be 66026
required, for each day the dealer so fails, to forfeit and pay 66027
into the state treasury the sum of one dollar as revenue arising 66028
from the tax imposed by sections 5743.01 to 5743.20 of the Revised 66029
Code and such sum may be collected by assessment in the manner 66030
provided in section 5743.081 of the Revised Code. If the 66031
commissioner finds it necessary in order to insure the payment of 66032
the tax imposed by sections 5743.01 to 5743.20 of the Revised 66033
Code, the commissioner may require returns and payments to be made 66034
other than semiannually. The returns shall be signed by the 66035
wholesale dealer or an authorized agent thereof. 66036

(F) Each person required to file a tax return under section 66037
5743.03, 5743.52, or 5743.62 of the Revised Code shall report to 66038
the commissioner the quantity of all cigarettes and roll-your-own 66039
cigarette tobacco sold in Ohio for each brand not covered by the 66040
tobacco master settlement agreement for which the person is liable 66041
for the taxes levied under section 5743.02, 5743.51, or 5743.62 of 66042
the Revised Code. 66043

As used in this division, "tobacco master settlement 66044
agreement" has the same meaning as in section 183.01 of the 66045
Revised Code. 66046

(G) The report required by division (F) of this section shall 66047
be made on a form prescribed by the commissioner and shall be 66048
filed not later than the last day of each month for the previous 66049
month, except that if the commissioner determines that the 66050
quantity reported by a person does not warrant monthly reporting, 66051
the commissioner may authorize reporting at less frequent 66052
intervals. The commissioner may assess a penalty of not more than 66053
two hundred fifty dollars for each month or portion thereof that a 66054
person fails to timely file a required report, and such sum may be 66055
collected by assessment in the manner provided in section 5743.081 66056
of the Revised Code. All money collected under this division shall 66057
be considered as revenue arising from the taxes imposed by 66058
sections 5743.01 to 5743.20 of the Revised Code. 66059

(H) The treasurer of state or an agent of the treasurer may 66060
sell cigarette tax stamps only to licensed wholesale or retail 66061
cigarette dealers, except as otherwise authorized by the tax 66062
commissioner, and may charge costs related to the sale of 66063
cigarette stamps to a purchasing dealer. Money collected from such 66064
charges shall be credited to the treasurer of state's 66065
administrative fund created under section 113.20 of the Revised 66066
Code. 66067

Sec. 5743.031. (A) A wholesale dealer may affix stamps only 66068
to packages of cigarettes that the dealer received directly from a 66069
manufacturer or importer of cigarettes that possesses a valid and 66070
current license under section 5743.15 of the Revised Code, or to 66071
packages of cigarettes that the dealer received from another 66072
wholesale dealer that possesses a valid and current license under 66073
section 5743.15 of the Revised Code, provided that the tax 66074
commissioner has authorized the sale of the cigarettes between 66075
those wholesale dealers and that the wholesale dealer that sells 66076
the cigarettes received them directly from a manufacturer or 66077
importer of cigarettes that possesses a valid and current license 66078
under section 5743.15 of the Revised Code. 66079

(B) Only a wholesale dealer that possesses a valid and 66080
current license under section 5743.15 of the Revised Code may 66081
purchase or obtain tax stamps. A wholesale dealer may not sell or 66082
provide such stamps to any other wholesale dealer or any other 66083
person. 66084

(C) Any person shipping unstamped packages of cigarettes into 66085
this state to a person other than a wholesale dealer licensed 66086
under section 5743.15 of the Revised Code shall, before such 66087
shipment, file notice of the shipment with the tax commissioner. 66088
Any person that transports unstamped packages of cigarettes into 66089
or within this state shall carry in the vehicle used to convey the 66090
shipment invoices or equivalent documentation of the shipment for 66091
all cigarettes in the shipment. The invoices or other 66092
documentation shall show the true name and address of the 66093
consignor or seller, the true name and address of the consignee or 66094
purchaser, and the quantity of the cigarettes being transported. 66095
This division does not apply to any ~~common or contract~~ for-hire 66096
motor carrier transporting cigarettes through this state to 66097
another location under a proper bill of lading or freight bill 66098
that states the quantity, source, and destination of the 66099

cigarettes. 66100

Sec. 5751.033. For the purposes of this chapter, gross 66101
receipts shall be sitused to this state as follows: 66102

(A) Gross rents and royalties from real property located in 66103
this state shall be sitused to this state. 66104

(B) Gross rents and royalties from tangible personal property 66105
shall be sitused to this state to the extent the tangible personal 66106
property is located or used in this state. 66107

(C) Gross receipts from the sale of electricity and electric 66108
transmission and distribution services shall be sitused to this 66109
state in the manner provided under section 5733.059 of the Revised 66110
Code. 66111

(D) Gross receipts from the sale of real property located in 66112
this state shall be sitused to this state. 66113

(E) Gross receipts from the sale of tangible personal 66114
property shall be sitused to this state if the property is 66115
received in this state by the purchaser. In the case of delivery 66116
of tangible personal property by ~~common~~ motor carrier or by other 66117
means of transportation, the place at which such property is 66118
ultimately received after all transportation has been completed 66119
shall be considered the place where the purchaser receives the 66120
property. For purposes of this section, the phrase "delivery of 66121
tangible personal property by ~~common~~ motor carrier or by other 66122
means of transportation" includes the situation in which a 66123
purchaser accepts the property in this state and then transports 66124
the property directly or by other means to a location outside this 66125
state. Direct delivery in this state, other than for purposes of 66126
transportation, to a person or firm designated by a purchaser 66127
constitutes delivery to the purchaser in this state, and direct 66128
delivery outside this state to a person or firm designated by a 66129

purchaser does not constitute delivery to the purchaser in this state, regardless of where title passes or other conditions of sale.

(F) Gross receipts from the sale, exchange, disposition, or other grant of the right to use trademarks, trade names, patents, copyrights, and similar intellectual property shall be situated to this state to the extent that the receipts are based on the amount of use of the property in this state. If the receipts are not based on the amount of use of the property, but rather on the right to use the property, and the payor has the right to use the property in this state, then the receipts from the sale, exchange, disposition, or other grant of the right to use such property shall be situated to this state to the extent the receipts are based on the right to use the property in this state.

(G) Gross receipts from the sale of transportation services by a ~~common or contract~~ motor carrier shall be situated to this state in proportion to the mileage traveled by the carrier during the tax period on roadways, waterways, airways, and railways in this state to the mileage traveled by the carrier during the tax period on roadways, waterways, airways, and railways everywhere. With prior written approval of the tax commissioner, a ~~common or contract~~ motor carrier may use an alternative situsing procedure for transportation services.

(H) Gross receipts from dividends, interest, and other sources of income from financial instruments described in divisions (F)(4), (5), (6), (7), (8), (9), (10), (11), and (13) of section 5733.056 of the Revised Code shall be situated to this state in accordance with the situsing provisions set forth in those divisions. When applying the provisions of divisions (F)(6), (8), and (13) of section 5733.056 of the Revised Code, "gross receipts" shall be substituted for "net gains" wherever "net gains" appears in those divisions. Nothing in this division limits

or modifies the exclusions enumerated in divisions (E) and (F)(2) 66162
of section 5751.01 of the Revised Code. The tax commissioner may 66163
promulgate rules to further specify the manner in which to situs 66164
gross receipts subject to this division. 66165

(I) Gross receipts from the sale of all other services, and 66166
all other gross receipts not otherwise situated under this section, 66167
shall be situated to this state in the proportion that the 66168
purchaser's benefit in this state with respect to what was 66169
purchased bears to the purchaser's benefit everywhere with respect 66170
to what was purchased. The physical location where the purchaser 66171
ultimately uses or receives the benefit of what was purchased 66172
shall be paramount in determining the proportion of the benefit in 66173
this state to the benefit everywhere. If a taxpayer's records do 66174
not allow the taxpayer to determine that location, the taxpayer 66175
may use an alternative method to situs gross receipts under this 66176
division if the alternative method is reasonable, is consistently 66177
and uniformly applied, and is supported by the taxpayer's records 66178
as the records exist when the service is provided or within a 66179
reasonable period of time thereafter. 66180

(J) If the situsing provisions of divisions (A) to (H) of 66181
this section do not fairly represent the extent of a person's 66182
activity in this state, the person may request, or the tax 66183
commissioner may require or permit, an alternative method. Such 66184
request by a person must be made within the applicable statute of 66185
limitations set forth in this chapter. 66186

(K) The tax commissioner may adopt rules to provide 66187
additional guidance to the application of this section, and 66188
provide alternative methods of situsing gross receipts that apply 66189
to all persons, or subset of persons, that are engaged in similar 66190
business or trade activities. 66191

(L) As used in this section, "motor carrier" has the same 66192
meaning as in section 4923.01 of the Revised Code. 66193

Sec. 5751.12. The tax commissioner may prescribe requirements 66194
for the keeping of records and other pertinent documents, the 66195
filing of copies of federal income tax returns and determinations, 66196
and computations reconciling federal income tax returns with the 66197
returns and reports required by section 5751.05 of the Revised 66198
Code. The commissioner may require any person, by rule or notice 66199
served on that person, to keep those records that the commissioner 66200
considers necessary to show whether, and the extent to which, a 66201
person is subject to this chapter. Those records and other 66202
documents shall be open during business hours to the inspection of 66203
the commissioner, and shall be preserved for a period of four 66204
years unless the commissioner, in writing, consents to their 66205
destruction within that period, or by order requires that they be 66206
kept longer. If such records are normally kept by the person 66207
electronically, the person shall provide such records to the 66208
commissioner electronically at the commissioner's request. 66209

Any information required by the ~~tax~~ commissioner under this 66210
chapter is confidential as provided for in section 5703.21 of the 66211
Revised Code. However, the commissioner shall make public an 66212
electronic list of all actively registered persons required to 66213
remit the tax under this chapter, including legal names, trade 66214
names, addresses, and account numbers. In addition, such list 66215
shall include all persons that cancelled their registration at any 66216
time during the preceding four calendar years, including the date 66217
the registration was cancelled. 66218

Sec. 6109.21. (A) Except as provided in divisions ~~(D)~~(I) and 66219
~~(E)~~(J) of this section, ~~on and after January 1, 1994,~~ no person 66220
shall operate ~~or maintain~~ a public water system in this state 66221
without a license issued by the director of environmental 66222
protection. ~~A person who operates or maintains a public water~~ 66223
~~system on January 1, 1994, shall obtain an initial license under~~ 66224

~~this section in accordance with the following schedule:~~ 66225

~~(1) If the public water system is a community water system,~~ 66226
~~not later than January 31, 1994;~~ 66227

~~(2) If the public water system is not a community water~~ 66228
~~system and serves a nontransient population, not later than~~ 66229
~~January 31, 1994;~~ 66230

~~(3) If the public water system is not a community water~~ 66231
~~system and serves a transient population, not later than January~~ 66232
~~31, 1995.~~ 66233

~~A person proposing to operate or maintain a new public water~~ 66234
~~system after January 1, 1994, in addition to complying with~~ 66235
~~section 6109.07 of the Revised Code and rules adopted under it,~~ 66236
~~shall submit an application for an initial license under this~~ 66237
~~section to the director prior to commencing operation of the~~ 66238
~~system.~~ 66239

~~A license or license renewal issued under this section shall~~ 66240
~~be renewed annually. Such a license or license renewal shall~~ 66241
~~expire on the thirtieth day of January in the year following its~~ 66242
~~issuance. A license holder that proposes to continue operating the~~ 66243
~~public water system for which the license or license renewal was~~ 66244
~~issued shall apply for a license renewal at least thirty days~~ 66245
~~prior to that expiration date.~~ 66246

~~The director shall adopt, and may amend and rescind, rules in~~ 66247
~~accordance with Chapter 119. of the Revised Code establishing~~ 66248
~~procedures governing and information to be included on~~ 66249
~~applications for licenses and license renewals under this section.~~ 66250
Through (B)(1) A person who proposes to operate a new public water 66251
system, in addition to complying with section 6109.07 of the 66252
Revised Code and rules adopted under it, shall obtain an initial 66253
license from the director. The person shall submit an application 66254
for the initial license at least forty-five days prior to 66255

commencing the operation of the system. 66256

(C) A license shall expire on the thirtieth day of January in the year following its issuance. 66257
66258

(D) A license shall be renewed annually. A person proposing to continue operating a public water system shall apply for a license renewal at least thirty days prior to the expiration date of the license. 66259
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(E) Through June 30, 2014, each application for a license or license renewal shall be accompanied by the appropriate fee established under division (M) of section 3745.11 of the Revised Code, provided that. However, an applicant for an initial license who is proposing to operate or maintain a new public water system after January 1, 1994, shall submit a fee that equals a prorated amount of the appropriate fee established under that division for the remainder of the licensing year. 66263
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~~(B)~~(F) Not later than thirty days after receiving a completed application and the appropriate license fee for ~~an initial a~~ license under division (A) of this section, the director shall ~~issue the~~ or license renewal for the a public water system. ~~Not later than thirty days after receiving a completed application and the appropriate license fee for a license renewal under division (A) of this section,~~ the director shall do one of the following: 66271
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(1) Issue the license or license renewal for the public water system; 66278
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(2) Issue the license or license renewal subject to terms and conditions that the director determines are necessary to ensure compliance with this chapter and rules adopted under it; 66280
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66282

(3) Deny the license or license renewal if the director finds that the public water system ~~was not~~ cannot be operated in substantial compliance with this chapter and rules adopted under it. 66283
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~~(C)~~(G) The director may condition, suspend, or revoke a 66287
license or license renewal issued under this section at any time 66288
if the director finds that the public water system was not or will 66289
not be operated in substantial compliance with this chapter and 66290
rules adopted under it. ~~The director shall adopt, and may amend~~ 66291
~~and rescind, rules in accordance with Chapter 119. of the Revised~~ 66292
~~Code governing such suspensions and revocations.~~ 66293

~~(D)~~(H) The director shall adopt rules in accordance with 66294
Chapter 119. of the Revised Code establishing procedures and 66295
requirements governing both of the following: 66296

(1) Information to be included on applications for licenses 66297
and license renewals issued under this section; 66298

(2) The issuance, conditioning, suspension, revocation, and 66299
denial of licenses and license renewals under this section. 66300

~~(I)~~(1) As used in division ~~(D)~~(I) of this section, "church" 66301
means a fellowship of believers, congregation, society, 66302
corporation, convention, or association that is formed primarily 66303
or exclusively for religious purposes and that is not formed or 66304
operated for the private profit of any person. 66305

(2) This section does not apply to a church that operates or 66306
maintains a public water system solely to provide water for that 66307
church or for a campground that is owned by the church and 66308
operated primarily or exclusively for members of the church and 66309
their families. ~~A church that, on or before March 5, 1996, has~~ 66310
~~obtained a license under this section for such a public water~~ 66311
~~system need not obtain a license renewal under this section.~~ 66312

~~(E)~~(J) This section does not apply to any public or nonpublic 66313
school that meets minimum standards of the state board of 66314
education that operates or maintains a public water system solely 66315
to provide water for that school. 66316

~~(F)~~(K) The environmental protection agency shall collect well 66317

log filing fees on behalf of the division of soil and water 66318
resources in the department of natural resources in accordance 66319
with section 1521.05 of the Revised Code and rules adopted under 66320
it. The fees shall be submitted to the division quarterly as 66321
provided in those rules. 66322

Sec. 6111.46. (A) The environmental protection agency shall 66323
exercise general supervision of the treatment and disposal of 66324
sewage and industrial wastes and the operation and maintenance of 66325
works or means installed for the collection, treatment, and 66326
disposal of sewage and industrial wastes. Such general supervision 66327
shall apply to all features of construction, operation, and 66328
maintenance of the works or means that do or may affect the proper 66329
treatment and disposal of sewage and industrial wastes. 66330

(B)(1) The agency shall investigate the works or means 66331
employed in the collection, treatment, and disposal of sewage and 66332
industrial wastes whenever considered necessary or whenever 66333
requested to do so by local health officials and may issue and 66334
enforce orders and shall adopt rules governing the operation and 66335
maintenance of the works or means of treatment and disposal of 66336
such sewage and industrial wastes. In adopting rules under this 66337
section, the agency shall establish standards governing the 66338
construction, operation, and maintenance of the works or means of 66339
collection, treatment, and disposal of sewage that is generated at 66340
recreational vehicle parks, recreation camps, combined park-camps, 66341
and temporary park-camps that are separate from such standards 66342
relative to manufactured home parks. 66343

(2) As used in division (B)(1) of this section: 66344

(a) "Manufactured home parks" has the same meaning as in 66345
section ~~3733.01~~ 4781.01 of the Revised Code. 66346

(b) "Recreational vehicle parks," "recreation camps," 66347
"combined park-camps," and "temporary park-camps" have the same 66348

meanings as in section 3729.01 of the Revised Code. 66349

(C) The agency may require the submission of records and data 66350
of construction, operation, and maintenance, including plans and 66351
descriptions of existing works or means of treatment and disposal 66352
of such sewage and industrial wastes. When the agency requires the 66353
submission of such records or information, the public officials or 66354
person, firm, or corporation having the works in charge shall 66355
comply promptly with that order. 66356

Section 101.02. That existing sections 7.10, 7.16, 9.91, 66357
102.02, 103.51, 105.41, 109.57, 109.572, 120.08, 121.04, 121.08, 66358
121.083, 121.084, 122.07, 123.01, 123.011, 123.024, 123.04, 66359
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5725.14, 5725.15, 5725.16, 5725.17, 5725.22, 5725.221, 5731.39, 66472
5733.064, 5739.01, 5743.03, 5743.031, 5751.033, 5751.12, 6109.21, 66473
and 6111.46 of the Revised Code are hereby repealed. 66474

Section 105.01. That sections 103.144, 103.145, 103.146, 66475

185.04, 185.08, 185.10, 185.11, 340.05, 2301.19, 2909.32, 2909.33, 66476
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5123.082, 5123.083, 5123.192, 5126.0222, 5126.252, 5126.26, 66495
5126.27, 5126.28, 5126.281, 5126.29, and 5501.09 of the Revised 66496
Code are hereby repealed. 66497

Section 110.10. That the version of section 5122.31 of the 66498
Revised Code that is scheduled to take effect on October 1, 2012, 66499
be amended to read as follows: 66500

Sec. 5122.31. (A) All certificates, applications, records, 66501
and reports made for the purpose of this chapter and sections 66502
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 66503
Code, other than court journal entries or court docket entries, 66504
and directly or indirectly identifying a patient or former patient 66505

or person whose hospitalization has been sought under this 66506
chapter, shall be kept confidential and shall not be disclosed by 66507
any person except: 66508

(1) If the person identified, or the person's legal guardian, 66509
if any, or if the person is a minor, the person's parent or legal 66510
guardian, consents, and if the disclosure is in the best interests 66511
of the person, as may be determined by the court for judicial 66512
records and by the chief clinical officer for medical records; 66513

(2) When disclosure is provided for in this chapter or 66514
section 5123.601 of the Revised Code; 66515

(3) That hospitals, boards of alcohol, drug addiction, and 66516
mental health services, and community mental health agencies may 66517
release necessary medical information to insurers and other 66518
third-party payers, including government entities responsible for 66519
processing and authorizing payment, to obtain payment for goods 66520
and services furnished to the patient; 66521

(4) Pursuant to a court order signed by a judge; 66522

(5) That a patient shall be granted access to the patient's 66523
own psychiatric and medical records, unless access specifically is 66524
restricted in a patient's treatment plan for clear treatment 66525
reasons; 66526

(6) That hospitals and other institutions and facilities 66527
within the department of mental health may exchange psychiatric 66528
records and other pertinent information with other hospitals, 66529
institutions, and facilities of the department, and with community 66530
mental health agencies and boards of alcohol, drug addiction, and 66531
mental health services with which the department has a current 66532
agreement for patient care or services. Records and information 66533
that may be released pursuant to this division shall be limited to 66534
medication history, physical health status and history, financial 66535

status, summary of course of treatment in the hospital, summary of 66536
treatment needs, and a discharge summary, if any. 66537

(7) That hospitals within the department, other institutions 66538
and facilities within the department, hospitals licensed by the 66539
department under section 5119.20 of the Revised Code, and 66540
community mental health agencies may exchange psychiatric records 66541
and other pertinent information with payers and other providers of 66542
treatment and health services if the purpose of the exchange is to 66543
facilitate continuity of care for a patient; 66544

(8) That a patient's family member who is involved in the 66545
provision, planning, and monitoring of services to the patient may 66546
receive medication information, a summary of the patient's 66547
diagnosis and prognosis, and a list of the services and personnel 66548
available to assist the patient and the patient's family, if the 66549
patient's treating physician determines that the disclosure would 66550
be in the best interests of the patient. No such disclosure shall 66551
be made unless the patient is notified first and receives the 66552
information and does not object to the disclosure. 66553

(9) That community mental health agencies may exchange 66554
psychiatric records and certain other information with the board 66555
of alcohol, drug addiction, and mental health services and other 66556
agencies in order to provide services to a person involuntarily 66557
committed to a board. Release of records under this division shall 66558
be limited to medication history, physical health status and 66559
history, financial status, summary of course of treatment, summary 66560
of treatment needs, and discharge summary, if any. 66561

(10) That information may be disclosed to the executor or the 66562
administrator of an estate of a deceased patient when the 66563
information is necessary to administer the estate; 66564

(11) That records in the possession of the Ohio historical 66565
society may be released to the closest living relative of a 66566

deceased patient upon request of that relative; 66567

(12) That information may be disclosed to staff members of 66568
the appropriate board or to staff members designated by the 66569
director of mental health for the purpose of evaluating the 66570
quality, effectiveness, and efficiency of services and determining 66571
if the services meet minimum standards. Information obtained 66572
during such evaluations shall not be retained with the name of any 66573
patient. 66574

(13) That records pertaining to the patient's diagnosis, 66575
course of treatment, treatment needs, and prognosis shall be 66576
disclosed and released to the appropriate prosecuting attorney if 66577
the patient was committed pursuant to section 2945.38, 2945.39, 66578
2945.40, 2945.401, or 2945.402 of the Revised Code, or to the 66579
attorney designated by the board for proceedings pursuant to 66580
involuntary commitment under this chapter. 66581

(14) That the department of mental health may exchange 66582
psychiatric hospitalization records, other mental health treatment 66583
records, and other pertinent information with the department of 66584
rehabilitation and correction to ensure continuity of care for 66585
inmates who are receiving mental health services in an institution 66586
of the department of rehabilitation and correction. The department 66587
shall not disclose those records unless the inmate is notified, 66588
receives the information, and does not object to the disclosure. 66589
The release of records under this division is limited to records 66590
regarding an inmate's medication history, physical health status 66591
and history, summary of course of treatment, summary of treatment 66592
needs, and a discharge summary, if any. 66593

(15) That a community mental health agency that ceases to 66594
operate may transfer to either a community mental health agency 66595
that assumes its caseload or to the board of alcohol, drug 66596
addiction, and mental health services of the service district in 66597
which the patient resided at the time services were most recently 66598

provided any treatment records that have not been transferred 66599
elsewhere at the patient's request. 66600

(B) Before records are disclosed pursuant to divisions 66601
(A)(3), (6), ~~(7)~~, and (9) of this section, the custodian of the 66602
records shall attempt to obtain the patient's consent for the 66603
disclosure. No person shall reveal the contents of a medical 66604
record of a patient except as authorized by law. 66605

(C) The managing officer of a hospital who releases necessary 66606
medical information under division (A)(3) of this section to allow 66607
an insurance carrier or other third party payor to comply with 66608
section 5121.43 of the Revised Code shall neither be subject to 66609
criminal nor civil liability. 66610

Section 110.11. That the existing version of section 5122.31 66611
of the Revised Code that is scheduled to take effect on October 1, 66612
2012, is hereby repealed. 66613

Section 110.12. Sections 110.10 and 110.11 of this act take 66614
effect October 1, 2012. 66615

Section 110.20. That the version of section 5123.19 of the 66616
Revised Code that is scheduled to take effect on October 1, 2012, 66617
be amended to read as follows: 66618

Sec. 5123.19. (A) As used in ~~this section and in~~ sections 66619
~~5123.191, 5123.194, 5123.196, 5123.197, 5123.198, and 5123.19 to~~ 66620
5123.20 of the Revised Code: 66621

(1)(a) ~~"Residential facility" means a home or facility in~~ 66622
~~which a mentally retarded or developmentally disabled person~~ 66623
~~resides, except the home of a relative or legal guardian in which~~ 66624
~~a mentally retarded or developmentally disabled person resides, a~~ 66625
~~respite care home certified under section 5126.05 of the Revised~~ 66626

~~Code, a county home or district home operated pursuant to Chapter 66627
5155. of the Revised Code, or a dwelling in which the only 66628
mentally retarded or developmentally disabled residents are in an 66629
independent living arrangement or are being provided supported 66630
living. 66631~~

~~(b) "Intermediate care facility for the mentally retarded" 66632
means a residential facility that is considered an intermediate 66633
care facility for the mentally retarded for the purposes of 66634
Chapter 5111. of the Revised Code. 66635~~

~~(2) "Political subdivision" means a municipal corporation, 66636
county, or township. 66637~~

~~(3) "Independent living arrangement" means an arrangement in 66638
which a mentally retarded or developmentally disabled person 66639
resides in an individualized setting chosen by the person or the 66640
person's guardian, which is not dedicated principally to the 66641
provision of residential services for mentally retarded or 66642
developmentally disabled persons, and for which no financial 66643
support is received for rendering such service from any 66644
governmental agency by a provider of residential services. 66645~~

~~(4)(2) "Intermediate care facility for the mentally retarded" 66646
has the same meaning as in section 1905(d) of the "Social Security 66647
Act," 101 Stat. 1330-204 (1987), 42 U.S.C. 1396d(d), as amended. 66648~~

~~(3) "Licensee" means the person or government agency that has 66649
applied for a license to operate a residential facility and to 66650
which the license was issued under this section. 66651~~

~~(4) "Political subdivision" means a municipal corporation, 66652
county, or township. 66653~~

~~(5) "Related party" has the same meaning as in section 66654
5123.16 of the Revised Code except that "provider" as used in the 66655
definition of "related party" means a person or government entity 66656
that held or applied for a license to operate a residential 66657~~

facility, rather than a person or government entity certified to provide supported living.

(6)(a) Except as provided in division (A)(6)(b) of this section, "residential facility" means a home or facility, including a facility certified as an intermediate care facility for the mentally retarded, in which an individual with mental retardation or a developmental disability resides.

(b) "Residential facility" does not mean any of the following:

(i) The home of a relative or legal guardian in which an individual with mental retardation or a developmental disability resides;

(ii) A respite care home certified under section 5126.05 of the Revised Code;

(iii) A county home or district home operated pursuant to Chapter 5155. of the Revised Code;

(iv) A dwelling in which the only residents with mental retardation or developmental disabilities are in independent living arrangements or are being provided supported living.

(B) Every person or government agency desiring to operate a residential facility shall apply for licensure of the facility to the director of developmental disabilities unless the residential facility is subject to section 3721.02, ~~5119.73~~, 5103.03, ~~or 5119.20~~, or division (A)(9)(b) of section 5119.22 of the Revised Code. ~~Notwithstanding Chapter 3721. of the Revised Code, a nursing home that is certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for licensure of the portion of the home that is certified as an intermediate care facility for the mentally retarded.~~

(C) Subject to section 5123.196 of the Revised Code, the 66688
director of developmental disabilities shall license the operation 66689
of residential facilities. An initial license shall be issued for 66690
a period that does not exceed one year, unless the director denies 66691
the license under division (D) of this section. A license shall be 66692
renewed for a period that does not exceed three years, unless the 66693
director refuses to renew the license under division (D) of this 66694
section. The director, when issuing or renewing a license, shall 66695
specify the period for which the license is being issued or 66696
renewed. A license remains valid for the length of the licensing 66697
period specified by the director, unless the license is 66698
terminated, revoked, or voluntarily surrendered. 66699

(D) If it is determined that an applicant or licensee is not 66700
in compliance with a provision of this chapter that applies to 66701
residential facilities or the rules adopted under such a 66702
provision, the director may deny issuance of a license, refuse to 66703
renew a license, terminate a license, revoke a license, issue an 66704
order for the suspension of admissions to a facility, issue an 66705
order for the placement of a monitor at a facility, issue an order 66706
for the immediate removal of residents, or take any other action 66707
the director considers necessary consistent with the director's 66708
authority under this chapter regarding residential facilities. In 66709
the director's selection and administration of the sanction to be 66710
imposed, all of the following apply: 66711

(1) The director may deny, refuse to renew, or revoke a 66712
license, if the director determines that the applicant or licensee 66713
has demonstrated a pattern of serious noncompliance or that a 66714
violation creates a substantial risk to the health and safety of 66715
residents of a residential facility. 66716

(2) The director may terminate a license if more than twelve 66717
consecutive months have elapsed since the residential facility was 66718
last occupied by a resident or a notice required by division (K) 66719

of this section is not given. 66720

(3) The director may issue an order for the suspension of 66721
admissions to a facility for any violation that may result in 66722
sanctions under division (D)(1) of this section and for any other 66723
violation specified in rules adopted under division (H)(2) of this 66724
section. If the suspension of admissions is imposed for a 66725
violation that may result in sanctions under division (D)(1) of 66726
this section, the director may impose the suspension before 66727
providing an opportunity for an adjudication under Chapter 119. of 66728
the Revised Code. The director shall lift an order for the 66729
suspension of admissions when the director determines that the 66730
violation that formed the basis for the order has been corrected. 66731

(4) The director may order the placement of a monitor at a 66732
residential facility for any violation specified in rules adopted 66733
under division (H)(2) of this section. The director shall lift the 66734
order when the director determines that the violation that formed 66735
the basis for the order has been corrected. 66736

(5) If the director determines that two or more residential 66737
facilities owned or operated by the same person or government 66738
entity are not being operated in compliance with a provision of 66739
this chapter that applies to residential facilities or the rules 66740
adopted under such a provision, and the director's findings are 66741
based on the same or a substantially similar action, practice, 66742
circumstance, or incident that creates a substantial risk to the 66743
health and safety of the residents, the director shall conduct a 66744
survey as soon as practicable at each residential facility owned 66745
or operated by that person or government entity. The director may 66746
take any action authorized by this section with respect to any 66747
facility found to be operating in violation of a provision of this 66748
chapter that applies to residential facilities or the rules 66749
adopted under such a provision. 66750

(6) When the director initiates license revocation 66751

proceedings, no opportunity for submitting a plan of correction 66752
shall be given. The director shall notify the licensee by letter 66753
of the initiation of the proceedings. The letter shall list the 66754
deficiencies of the residential facility and inform the licensee 66755
that no plan of correction will be accepted. The director shall 66756
also send a copy of the letter to the county board of 66757
developmental disabilities. The county board shall send a copy of 66758
the letter to each of the following: 66759

(a) Each resident who receives services from the licensee; 66760

(b) The guardian of each resident who receives services from 66761
the licensee if the resident has a guardian; 66762

(c) The parent or guardian of each resident who receives 66763
services from the licensee if the resident is a minor. 66764

(7) Pursuant to rules which shall be adopted in accordance 66765
with Chapter 119. of the Revised Code, the director may order the 66766
immediate removal of residents from a residential facility 66767
whenever conditions at the facility present an immediate danger of 66768
physical or psychological harm to the residents. 66769

(8) In determining whether a residential facility is being 66770
operated in compliance with a provision of this chapter that 66771
applies to residential facilities or the rules adopted under such 66772
a provision, or whether conditions at a residential facility 66773
present an immediate danger of physical or psychological harm to 66774
the residents, the director may rely on information obtained by a 66775
county board of developmental disabilities or other governmental 66776
agencies. 66777

(9) In proceedings initiated to deny, refuse to renew, or 66778
revoke licenses, the director may deny, refuse to renew, or revoke 66779
a license regardless of whether some or all of the deficiencies 66780
that prompted the proceedings have been corrected at the time of 66781
the hearing. 66782

(E) The director shall establish a program under which public notification may be made when the director has initiated license revocation proceedings or has issued an order for the suspension of admissions, placement of a monitor, or removal of residents. The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this division. The rules shall establish the procedures by which the public notification will be made and specify the circumstances for which the notification must be made. The rules shall require that public notification be made if the director has taken action against the facility in the eighteen-month period immediately preceding the director's latest action against the facility and the latest action is being taken for the same or a substantially similar violation of a provision of this chapter that applies to residential facilities or the rules adopted under such a provision. The rules shall specify a method for removing or amending the public notification if the director's action is found to have been unjustified or the violation at the residential facility has been corrected.

(F)(1) Except as provided in division (F)(2) of this section, appeals from proceedings initiated to impose a sanction under division (D) of this section shall be conducted in accordance with Chapter 119. of the Revised Code.

(2) Appeals from proceedings initiated to order the suspension of admissions to a facility shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:

(a) The licensee may request a hearing not later than ten days after receiving the notice specified in section 119.07 of the Revised Code.

(b) If a timely request for a hearing that includes the licensee's current address is made, the hearing shall commence not

later than thirty days after the department receives the request. 66815

(c) After commencing, the hearing shall continue 66816
uninterrupted, except for Saturdays, Sundays, and legal holidays, 66817
unless other interruptions are agreed to by the licensee and the 66818
director. 66819

(d) If the hearing is conducted by a hearing examiner, the 66820
hearing examiner shall file a report and recommendations not later 66821
than ten days after the last of the following: 66822

(i) The close of the hearing; 66823

(ii) If a transcript of the proceedings is ordered, the 66824
hearing examiner receives the transcript; 66825

(iii) If post-hearing briefs are timely filed, the hearing 66826
examiner receives the briefs. 66827

(e) A copy of the written report and recommendation of the 66828
hearing examiner shall be sent, by certified mail, to the licensee 66829
and the licensee's attorney, if applicable, not later than five 66830
days after the report is filed. 66831

(f) Not later than five days after the hearing examiner files 66832
the report and recommendations, the licensee may file objections 66833
to the report and recommendations. 66834

(g) Not later than fifteen days after the hearing examiner 66835
files the report and recommendations, the director shall issue an 66836
order approving, modifying, or disapproving the report and 66837
recommendations. 66838

(h) Notwithstanding the pendency of the hearing, the director 66839
shall lift the order for the suspension of admissions when the 66840
director determines that the violation that formed the basis for 66841
the order has been corrected. 66842

(G) Neither a person or government agency whose application 66843
for a license to operate a residential facility is denied nor a 66844

related party of the person or government agency may apply for a license to operate a residential facility before the date that is one year after the date of the denial. Neither a licensee whose residential facility license is revoked nor a related party of the licensee may apply for a residential facility license before the date that is five years after the date of the revocation.

(H) In accordance with Chapter 119. of the Revised Code, the director shall adopt and may amend and rescind rules for licensing and regulating the operation of residential facilities, ~~including intermediate care facilities for the mentally retarded~~. The rules for residential facilities that are intermediate care facilities for the mentally retarded may differ from those for other residential facilities. The rules shall establish and specify the following:

(1) Procedures and criteria for issuing and renewing licenses, including procedures and criteria for determining the length of the licensing period that the director must specify for each license when it is issued or renewed;

(2) Procedures and criteria for denying, refusing to renew, terminating, and revoking licenses and for ordering the suspension of admissions to a facility, placement of a monitor at a facility, and the immediate removal of residents from a facility;

(3) Fees for issuing and renewing licenses, which shall be deposited into the program fee fund created under section 5123.033 of the Revised Code;

(4) Procedures for surveying residential facilities;

(5) Requirements for the training of residential facility personnel;

(6) Classifications for the various types of residential facilities;

(7) Certification procedures for licensees and management
contractors that the director determines are necessary to ensure
that they have the skills and qualifications to properly operate
or manage residential facilities; 66875
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(8) The maximum number of persons who may be served in a
particular type of residential facility; 66879
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(9) Uniform procedures for admission of persons to and
transfers and discharges of persons from residential facilities; 66881
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(10) Other standards for the operation of residential
facilities and the services provided at residential facilities; 66883
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(11) Procedures for waiving any provision of any rule adopted
under this section. 66885
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(I) Before issuing a license, the director of the department
or the director's designee shall conduct a survey of the 66887
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residential facility for which application is made. The director 66889
or the director's designee shall conduct a survey of each licensed 66890
residential facility at least once during the period the license 66891
is valid and may conduct additional inspections as needed. A 66892
survey includes but is not limited to an on-site examination and 66893
evaluation of the residential facility, its personnel, and the 66894
services provided there. 66895

In conducting surveys, the director or the director's
designee shall be given access to the residential facility; all 66896
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records, accounts, and any other documents related to the 66898
operation of the facility; the licensee; the residents of the 66899
facility; and all persons acting on behalf of, under the control 66900
of, or in connection with the licensee. The licensee and all 66901
persons on behalf of, under the control of, or in connection with 66902
the licensee shall cooperate with the director or the director's 66903
designee in conducting the survey. 66904

Following each survey, unless the director initiates a 66905

license revocation proceeding, the director or the director's 66906
designee shall provide the licensee with a report listing any 66907
deficiencies, specifying a timetable within which the licensee 66908
shall submit a plan of correction describing how the deficiencies 66909
will be corrected, and, when appropriate, specifying a timetable 66910
within which the licensee must correct the deficiencies. After a 66911
plan of correction is submitted, the director or the director's 66912
designee shall approve or disapprove the plan. A copy of the 66913
report and any approved plan of correction shall be provided to 66914
any person who requests it. 66915

The director shall initiate disciplinary action against any 66916
department employee who notifies or causes the notification to any 66917
unauthorized person of an unannounced survey of a residential 66918
facility by an authorized representative of the department. 66919

(J) In addition to any other information which may be 66920
required of applicants for a license pursuant to this section, the 66921
director shall require each applicant to provide a copy of an 66922
approved plan for a proposed residential facility pursuant to 66923
section 5123.042 of the Revised Code. This division does not apply 66924
to renewal of a license or to an applicant for an initial or 66925
modified license who meets the requirements of section ~~5123.193~~ or 66926
5123.197 of the Revised Code. 66927

(K) A licensee shall notify the owner of the building in 66928
which the licensee's residential facility is located of any 66929
significant change in the identity of the licensee or management 66930
contractor before the effective date of the change if the licensee 66931
is not the owner of the building. 66932

Pursuant to rules which shall be adopted in accordance with 66933
Chapter 119. of the Revised Code, the director may require 66934
notification to the department of any significant change in the 66935
ownership of a residential facility or in the identity of the 66936
licensee or management contractor. If the director determines that 66937

a significant change of ownership is proposed, the director shall 66938
consider the proposed change to be an application for development 66939
by a new operator pursuant to section 5123.042 of the Revised Code 66940
and shall advise the applicant within sixty days of the 66941
notification that the current license shall continue in effect or 66942
a new license will be required pursuant to this section. If the 66943
director requires a new license, the director shall permit the 66944
facility to continue to operate under the current license until 66945
the new license is issued, unless the current license is revoked, 66946
refused to be renewed, or terminated in accordance with Chapter 66947
119. of the Revised Code. 66948

(L) A county board of developmental disabilities and any 66949
interested person may file complaints alleging violations of 66950
statute or department rule relating to residential facilities with 66951
the department. All complaints shall be in writing and shall state 66952
the facts constituting the basis of the allegation. The department 66953
shall not reveal the source of any complaint unless the 66954
complainant agrees in writing to waive the right to 66955
confidentiality or until so ordered by a court of competent 66956
jurisdiction. 66957

The department shall adopt rules in accordance with Chapter 66958
119. of the Revised Code establishing procedures for the receipt, 66959
referral, investigation, and disposition of complaints filed with 66960
the department under this division. 66961

(M) The department shall establish procedures for the 66962
notification of interested parties of the transfer or interim care 66963
of residents from residential facilities that are closing or are 66964
losing their license. 66965

(N) Before issuing a license under this section to a 66966
residential facility that will accommodate at any time more than 66967
one mentally retarded or developmentally disabled individual, the 66968
director shall, by first class mail, notify the following: 66969

(1) If the facility will be located in a municipal corporation, the clerk of the legislative authority of the municipal corporation; 66970
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(2) If the facility will be located in unincorporated territory, the clerk of the appropriate board of county commissioners and the fiscal officer of the appropriate board of township trustees. 66973
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The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officials time in which to comment on the proposed issuance. 66977
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Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the director receives written comments from any notified officials within the specified time, the director shall make written findings concerning the comments and the director's decision on the issuance of the license. If the director does not receive written comments from any notified local officials within the specified time, the director shall continue the process for issuance of the license. 66981
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(0) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least six but not more than eight persons with mental retardation or a developmental disability as a permitted use in any residential district or zone, including any single-family residential district or zone, of any political subdivision. These residential facilities may be required to comply with area, height, yard, and 66994
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architectural compatibility requirements that are uniformly 67002
imposed upon all single-family residences within the district or 67003
zone. 67004

(P) Any person may operate a licensed residential facility 67005
that provides room and board, personal care, habilitation 67006
services, and supervision in a family setting for at least nine 67007
but not more than sixteen persons with mental retardation or a 67008
developmental disability as a permitted use in any multiple-family 67009
residential district or zone of any political subdivision, except 67010
that a political subdivision that has enacted a zoning ordinance 67011
or resolution establishing planned unit development districts may 67012
exclude these residential facilities from those districts, and a 67013
political subdivision that has enacted a zoning ordinance or 67014
resolution may regulate these residential facilities in 67015
multiple-family residential districts or zones as a conditionally 67016
permitted use or special exception, in either case, under 67017
reasonable and specific standards and conditions set out in the 67018
zoning ordinance or resolution to: 67019

(1) Require the architectural design and site layout of the 67020
residential facility and the location, nature, and height of any 67021
walls, screens, and fences to be compatible with adjoining land 67022
uses and the residential character of the neighborhood; 67023

(2) Require compliance with yard, parking, and sign 67024
regulation; 67025

(3) Limit excessive concentration of these residential 67026
facilities. 67027

(Q) This section does not prohibit a political subdivision 67028
from applying to residential facilities nondiscriminatory 67029
regulations requiring compliance with health, fire, and safety 67030
regulations and building standards and regulations. 67031

(R) Divisions (O) and (P) of this section are not applicable 67032

to municipal corporations that had in effect on June 15, 1977, an 67033
ordinance specifically permitting in residential zones licensed 67034
residential facilities by means of permitted uses, conditional 67035
uses, or special exception, so long as such ordinance remains in 67036
effect without any substantive modification. 67037

(S)(1) The director may issue an interim license to operate a 67038
residential facility to an applicant for a license under this 67039
section if either of the following is the case: 67040

(a) The director determines that an emergency exists 67041
requiring immediate placement of persons in a residential 67042
facility, that insufficient licensed beds are available, and that 67043
the residential facility is likely to receive a permanent license 67044
under this section within thirty days after issuance of the 67045
interim license. 67046

(b) The director determines that the issuance of an interim 67047
license is necessary to meet a temporary need for a residential 67048
facility. 67049

(2) To be eligible to receive an interim license, an 67050
applicant must meet the same criteria that must be met to receive 67051
a permanent license under this section, except for any differing 67052
procedures and time frames that may apply to issuance of a 67053
permanent license. 67054

(3) An interim license shall be valid for thirty days and may 67055
be renewed by the director for a period not to exceed one hundred 67056
fifty days. 67057

(4) The director shall adopt rules in accordance with Chapter 67058
119. of the Revised Code as the director considers necessary to 67059
administer the issuance of interim licenses. 67060

(T) Notwithstanding rules adopted pursuant to this section 67061
establishing the maximum number of persons who may be served in a 67062
particular type of residential facility, a residential facility 67063

shall be permitted to serve the same number of persons being 67064
served by the facility on the effective date of the rules or the 67065
number of persons for which the facility is authorized pursuant to 67066
a current application for a certificate of need with a letter of 67067
support from the department of developmental disabilities and 67068
which is in the review process prior to April 4, 1986. 67069

(U) The director or the director's designee may enter at any 67070
time, for purposes of investigation, any home, facility, or other 67071
structure that has been reported to the director or that the 67072
director has reasonable cause to believe is being operated as a 67073
residential facility without a license issued under this section. 67074

The director may petition the court of common pleas of the 67075
county in which an unlicensed residential facility is located for 67076
an order enjoining the person or governmental agency operating the 67077
facility from continuing to operate without a license. The court 67078
may grant the injunction on a showing that the person or 67079
governmental agency named in the petition is operating a 67080
residential facility without a license. The court may grant the 67081
injunction, regardless of whether the residential facility meets 67082
the requirements for receiving a license under this section. 67083

Section 110.21. That the existing version of section 5123.19 67084
of the Revised Code that is scheduled to take effect on October 1, 67085
2012, is hereby repealed. 67086

Section 110.22. Sections 110.20 and 110.21 of this act take 67087
effect October 1, 2012. 67088

Section 110.30. That the version of section 5123.61 of the 67089
Revised Code that is scheduled to take effect on October 1, 2012, 67090
be amended to read as follows: 67091

Sec. 5123.61. (A) As used in this section: 67092

(1) "Law enforcement agency" means the state highway patrol, 67093
the police department of a municipal corporation, or a county 67094
sheriff. 67095

(2) "Abuse" has the same meaning as in section 5123.50 of the 67096
Revised Code, except that it includes a misappropriation, as 67097
defined in that section. 67098

(3) "Neglect" has the same meaning as in section 5123.50 of 67099
the Revised Code. 67100

(B) The department of developmental disabilities shall 67101
establish a registry office for the purpose of maintaining reports 67102
of abuse, neglect, and other major unusual incidents made to the 67103
department under this section and reports received from county 67104
boards of developmental disabilities under section 5126.31 of the 67105
Revised Code. The department shall establish committees to review 67106
reports of abuse, neglect, and other major unusual incidents. 67107

(C)(1) Any person listed in division (C)(2) of this section, 67108
having reason to believe that a person with mental retardation or 67109
a developmental disability has suffered or faces a substantial 67110
risk of suffering any wound, injury, disability, or condition of 67111
such a nature as to reasonably indicate abuse or neglect of that 67112
person, shall immediately report or cause reports to be made of 67113
such information to the entity specified in this division. Except 67114
as provided in section 5120.173 of the Revised Code or as 67115
otherwise provided in this division, the person making the report 67116
shall make it to a law enforcement agency or to the county board 67117
of developmental disabilities. If the report concerns a resident 67118
of a facility operated by the department of developmental 67119
disabilities the report shall be made either to a law enforcement 67120
agency or to the department. If the report concerns any act or 67121
omission of an employee of a county board of developmental 67122
disabilities, the report immediately shall be made to the 67123
department and to the county board. 67124

(2) All of the following persons are required to make a report under division (C)(1) of this section:

(a) Any physician, including a hospital intern or resident, any dentist, podiatrist, chiropractor, practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code, hospital administrator or employee of a hospital, nurse licensed under Chapter 4723. of the Revised Code, employee of an ambulatory health facility as defined in section 5101.61 of the Revised Code, employee of a home health agency, employee of ~~an adult care~~ a residential facility licensed under ~~Chapter 3722.~~ section 5119.22 of the Revised Code that provides accommodations, supervision, and person care services for three to sixteen unrelated adults, or employee of a community mental health facility;

(b) Any school teacher or school authority, social worker, psychologist, attorney, peace officer, coroner, or residents' rights advocate as defined in section 3721.10 of the Revised Code;

(c) A superintendent, board member, or employee of a county board of developmental disabilities; an administrator, board member, or employee of a residential facility licensed under section 5123.19 of the Revised Code; an administrator, board member, or employee of any other public or private provider of services to a person with mental retardation or a developmental disability, or any MR/DD employee, as defined in section 5123.50 of the Revised Code;

(d) A member of a citizen's advisory council established at an institution or branch institution of the department of developmental disabilities under section 5123.092 of the Revised Code;

(e) A ~~clergyman~~ member of the clergy who is employed in a position that includes providing specialized services to an

individual with mental retardation or another developmental 67156
disability, while acting in an official or professional capacity 67157
in that position, or a person who is employed in a position that 67158
includes providing specialized services to an individual with 67159
mental retardation or another developmental disability and who, 67160
while acting in an official or professional capacity, renders 67161
spiritual treatment through prayer in accordance with the tenets 67162
of an organized religion. 67163

(3)(a) The reporting requirements of this division do not 67164
apply to employees of the Ohio protection and advocacy system. 67165

(b) An attorney or physician is not required to make a report 67166
pursuant to division (C)(1) of this section concerning any 67167
communication the attorney or physician receives from a client or 67168
patient in an attorney-client or physician-patient relationship, 67169
if, in accordance with division (A) or (B) of section 2317.02 of 67170
the Revised Code, the attorney or physician could not testify with 67171
respect to that communication in a civil or criminal proceeding, 67172
except that the client or patient is deemed to have waived any 67173
testimonial privilege under division (A) or (B) of section 2317.02 67174
of the Revised Code with respect to that communication and the 67175
attorney or physician shall make a report pursuant to division 67176
(C)(1) of this section, if both of the following apply: 67177

(i) The client or patient, at the time of the communication, 67178
is a person with mental retardation or a developmental disability. 67179

(ii) The attorney or physician knows or suspects, as a result 67180
of the communication or any observations made during that 67181
communication, that the client or patient has suffered or faces a 67182
substantial risk of suffering any wound, injury, disability, or 67183
condition of a nature that reasonably indicates abuse or neglect 67184
of the client or patient. 67185

(4) Any person who fails to make a report required under 67186

division (C) of this section and who is an MR/DD employee, as 67187
defined in section 5123.50 of the Revised Code, shall be eligible 67188
to be included in the registry regarding misappropriation, abuse, 67189
neglect, or other specified misconduct by MR/DD employees 67190
established under section 5123.52 of the Revised Code. 67191

(D) The reports required under division (C) of this section 67192
shall be made forthwith by telephone or in person and shall be 67193
followed by a written report. The reports shall contain the 67194
following: 67195

(1) The names and addresses of the person with mental 67196
retardation or a developmental disability and the person's 67197
custodian, if known; 67198

(2) The age of the person with mental retardation or a 67199
developmental disability; 67200

(3) Any other information that would assist in the 67201
investigation of the report. 67202

(E) When a physician performing services as a member of the 67203
staff of a hospital or similar institution has reason to believe 67204
that a person with mental retardation or a developmental 67205
disability has suffered injury, abuse, or physical neglect, the 67206
physician shall notify the person in charge of the institution or 67207
that person's designated delegate, who shall make the necessary 67208
reports. 67209

(F) Any person having reasonable cause to believe that a 67210
person with mental retardation or a developmental disability has 67211
suffered or faces a substantial risk of suffering abuse or neglect 67212
may report or cause a report to be made of that belief to the 67213
entity specified in this division. Except as provided in section 67214
5120.173 of the Revised Code or as otherwise provided in this 67215
division, the person making the report shall make it to a law 67216
enforcement agency or the county board of developmental 67217

disabilities. If the person is a resident of a facility operated 67218
by the department of developmental disabilities, the report shall 67219
be made to a law enforcement agency or to the department. If the 67220
report concerns any act or omission of an employee of a county 67221
board of developmental disabilities, the report immediately shall 67222
be made to the department and to the county board. 67223

(G)(1) Upon the receipt of a report concerning the possible 67224
abuse or neglect of a person with mental retardation or a 67225
developmental disability, the law enforcement agency shall inform 67226
the county board of developmental disabilities or, if the person 67227
is a resident of a facility operated by the department of 67228
developmental disabilities, the director of the department or the 67229
director's designee. 67230

(2) On receipt of a report under this section that includes 67231
an allegation of action or inaction that may constitute a crime 67232
under federal law or the law of this state, the department of 67233
developmental disabilities shall notify the law enforcement 67234
agency. 67235

(3) When a county board of developmental disabilities 67236
receives a report under this section that includes an allegation 67237
of action or inaction that may constitute a crime under federal 67238
law or the law of this state, the superintendent of the board or 67239
an individual the superintendent designates under division (H) of 67240
this section shall notify the law enforcement agency. The 67241
superintendent or individual shall notify the department of 67242
developmental disabilities when it receives any report under this 67243
section. 67244

(4) When a county board of developmental disabilities 67245
receives a report under this section and believes that the degree 67246
of risk to the person is such that the report is an emergency, the 67247
superintendent of the board or an employee of the board the 67248
superintendent designates shall attempt a face-to-face contact 67249

with the person with mental retardation or a developmental 67250
disability who allegedly is the victim within one hour of the 67251
board's receipt of the report. 67252

(H) The superintendent of the board may designate an 67253
individual to be responsible for notifying the law enforcement 67254
agency and the department when the county board receives a report 67255
under this section. 67256

(I) An adult with mental retardation or a developmental 67257
disability about whom a report is made may be removed from the 67258
adult's place of residence only by law enforcement officers who 67259
consider that the adult's immediate removal is essential to 67260
protect the adult from further injury or abuse or in accordance 67261
with the order of a court made pursuant to section 5126.33 of the 67262
Revised Code. 67263

(J) A law enforcement agency shall investigate each report of 67264
abuse or neglect it receives under this section. In addition, the 67265
department, in cooperation with law enforcement officials, shall 67266
investigate each report regarding a resident of a facility 67267
operated by the department to determine the circumstances 67268
surrounding the injury, the cause of the injury, and the person 67269
responsible. The investigation shall be in accordance with the 67270
memorandum of understanding prepared under section 5126.058 of the 67271
Revised Code. The department shall determine, with the registry 67272
office which shall be maintained by the department, whether prior 67273
reports have been made concerning an adult with mental retardation 67274
or a developmental disability or other principals in the case. If 67275
the department finds that the report involves action or inaction 67276
that may constitute a crime under federal law or the law of this 67277
state, it shall submit a report of its investigation, in writing, 67278
to the law enforcement agency. If the person with mental 67279
retardation or a developmental disability is an adult, with the 67280
consent of the adult, the department shall provide such protective 67281

services as are necessary to protect the adult. The law 67282
enforcement agency shall make a written report of its findings to 67283
the department. 67284

If the person is an adult and is not a resident of a facility 67285
operated by the department, the county board of developmental 67286
disabilities shall review the report of abuse or neglect in 67287
accordance with sections 5126.30 to 5126.33 of the Revised Code 67288
and the law enforcement agency shall make the written report of 67289
its findings to the county board. 67290

(K) Any person or any hospital, institution, school, health 67291
department, or agency participating in the making of reports 67292
pursuant to this section, any person participating as a witness in 67293
an administrative or judicial proceeding resulting from the 67294
reports, or any person or governmental entity that discharges 67295
responsibilities under sections 5126.31 to 5126.33 of the Revised 67296
Code shall be immune from any civil or criminal liability that 67297
might otherwise be incurred or imposed as a result of such actions 67298
except liability for perjury, unless the person or governmental 67299
entity has acted in bad faith or with malicious purpose. 67300

(L) No employer or any person with the authority to do so 67301
shall discharge, demote, transfer, prepare a negative work 67302
performance evaluation, reduce pay or benefits, terminate work 67303
privileges, or take any other action detrimental to an employee or 67304
retaliate against an employee as a result of the employee's having 67305
made a report under this section. This division does not preclude 67306
an employer or person with authority from taking action with 67307
regard to an employee who has made a report under this section if 67308
there is another reasonable basis for the action. 67309

(M) Reports made under this section are not public records as 67310
defined in section 149.43 of the Revised Code. Information 67311
contained in the reports on request shall be made available to the 67312
person who is the subject of the report, to the person's legal 67313

counsel, and to agencies authorized to receive information in the 67314
report by the department or by a county board of developmental 67315
disabilities. 67316

(N) Notwithstanding section 4731.22 of the Revised Code, the 67317
physician-patient privilege shall not be a ground for excluding 67318
evidence regarding the injuries or physical neglect of a person 67319
with mental retardation or a developmental disability or the cause 67320
thereof in any judicial proceeding resulting from a report 67321
submitted pursuant to this section. 67322

Section 110.31. That the existing version of section 5123.61 67323
of the Revised Code that is scheduled to take effect on October 1, 67324
2012, is hereby repealed. 67325

Section 110.32. Sections 110.30 and 110.31 of this act take 67326
effect October 1, 2012. 67327

Section 503.10. FISCAL YEAR 2012 GENERAL REVENUE FUND ENDING 67328
BALANCE 67329

Notwithstanding divisions (B) and (C) of section 131.44 of 67330
the Revised Code, the Director of Budget and Management shall 67331
determine the surplus General Revenue Fund revenue that existed on 67332
June 30, 2012, in excess of the amount required under division 67333
(A)(3) of section 131.44 of the Revised Code, and transfer from 67334
the General Revenue Fund, to the extent of the amount so 67335
determined, to the Statewide Treatment and Prevention Fund (Fund 67336
4750), a cash amount of \$1,000,000. 67337

Section 506.10. OHP HEALTH CARE GRANTS FUND 67338

For fiscal year 2012 and fiscal year 2013, the Department of 67339
Job and Family Services may deposit into the OHP Health Care 67340
Grants Fund (Fund 3FA0) federal grants for the administration of 67341

health care programs that the Department receives under the 67342
"Patient Protection and Affordable Care Act," Public Law 111-148, 67343
and the "Health Care and Education Reconciliation Act of 2010," 67344
Public Law 111-152. The Department shall use the money in the fund 67345
to pay for expenses incurred in carrying out duties the Department 67346
assumes by accepting such federal grants, including expenses for 67347
the administration of health care programs. 67348

Section 512.10. TRANSFER OF FUNDS FOR CASINO CONTROL 67349
COMMISSION OPERATIONS 67350

During fiscal year 2013, the Director of Budget and 67351
Management may, in consultation with the Executive Director of the 67352
Casino Control Commission, transfer cash as necessary for 67353
operating expenses and casino investigations. The transfer shall 67354
be made from the General Revenue Fund to the Casino Control 67355
Commission Operating Fund (Fund 5HS0). Once funds from upfront 67356
license application fees and gross casino revenue taxes have been 67357
accumulated to sustain operations, the Director of Budget and 67358
Management, in consultation with the Executive Director of the 67359
Casino Control Commission, shall establish a repayment schedule 67360
for transfers to the General Revenue Fund from the Casino Control 67361
Commission Operating Fund (Fund 5HS0). 67362

Section 512.20. PRE-SECURITIZATION TOBACCO PAYMENTS 67363

The Pre-Securitization Tobacco Payments Fund (Fund 5LS0) is 67364
hereby created in the state treasury. All moneys received by the 67365
state in connection with releases from disputed payment accounts 67366
or amounts previously withheld under the Tobacco Master Settlement 67367
Agreement that do not constitute pledged receipts for the Buckeye 67368
Tobacco Settlement Financing Authority Tobacco Settlement Bonds, 67369
Series 2007, shall be credited to the fund and used by the 67370
Director of Budget and Management as authorized in this section. 67371

On July 1 of each fiscal year, or as soon as possible 67372
thereafter, the Director of Budget and Management shall determine, 67373
in consultation with the Attorney General, the amounts needed to 67374
fund tobacco enforcement-related activities and may transfer cash 67375
in those amounts from Fund 5LS0 to the Tobacco Oversight 67376
Administration and Enforcement Fund (Fund U087). The Director of 67377
Budget and Management may transfer remaining cash determined to be 67378
in excess of the tobacco enforcement needs of the Attorney General 67379
from Fund 5LS0 to the General Revenue Fund. 67380

Upon receipt of all pre-securitization Tobacco Master 67381
Settlement Agreement payments and the transfer of all cash 67382
credited to Fund 5LS0 as authorized in this section, Fund 5LS0 is 67383
abolished. 67384

On July 1, 2012, or as soon as possible thereafter, and upon 67385
the request of the Attorney General, the Director of Budget and 67386
Management may transfer up to \$3,000,000 cash from the General 67387
Reimbursement Fund (Fund 1060) to the Tobacco Oversight 67388
Administration and Enforcement Fund (Fund U087). 67389

Section 512.30. CASH TRANSFER FROM TRAUMA AND EMERGENCY 67390
MEDICAL SERVICES GRANTS FUND 67391

On the effective date of this section, or as soon as possible 67392
thereafter, the Director of Budget and Management shall transfer 67393
the cash balance in the Trauma and Emergency Medical Services 67394
Grants Fund (Fund 83P0) to the Trauma and Emergency Medical 67395
Services Fund (Fund 83M0). The Director shall cancel any existing 67396
encumbrances against appropriation item 765637, EMS Grants, and 67397
reestablish them against appropriation item 765640, EMS - Grants. 67398
The reestablished encumbrance amounts are hereby appropriated. 67399

Section 512.40. CASH TRANSFER FROM ELEMENTARY SCHOOL SEAT 67400
BELT FUND 67401

On the effective date of this section, or as soon as possible 67402
thereafter, the Director of Budget and Management shall transfer 67403
the cash balance in the Elementary School Seat Belt Fund (Fund 67404
83N0) to the Trauma and Emergency Medical Services Fund (Fund 67405
83M0). The Director shall cancel any existing encumbrances against 67406
appropriation item 761611, Elementary School Seat Belt Program, 67407
and reestablish them against appropriation item 765624, Operating 67408
Expense - Trauma and EMS. The reestablished encumbrance amounts 67409
are hereby appropriated. 67410

Section 512.50. MEDICAID PROGRAM SUPPORT STATE FUND ABOLISHED 67411

The Director of Budget and Management shall transfer any 67412
remaining cash balance in the Medicaid Program Support State Fund 67413
(Fund 5C90) to the Health Care/Medicaid Support and Recoveries 67414
Fund (Fund 5DL0) created under section 5111.941 of the Revised 67415
Code. The Medicaid Program Support State Fund (Fund 5C90) shall 67416
cease to exist once the transfer is complete. 67417

Section 601.10. That Section 205.10 of Am. Sub. H.B. 114 of 67418
the 129th General Assembly, as amended by Am. Sub. H.B. 153 of the 67419
129th General Assembly, be amended to read as follows: 67420

Sec. 205.10. DPS DEPARTMENT OF PUBLIC SAFETY 67421

State Highway Safety Fund Group					67422	
4W40 762321	Operating Expense -	\$	80,003,146	\$	82,403,240	67423
	BMV				<u>82,003,240</u>	
4W40 762410	Registrations	\$	28,945,176	\$	29,813,532	67424
	Supplement					
5V10 762682	License Plate	\$	2,100,000	\$	2,100,000	67425
	Contributions					
7036 761321	Operating Expense -	\$	7,124,366	\$	7,338,097	67426
	Information and				<u>6,988,097</u>	

		Education				
7036	761401	Lease Rental Payments	\$	9,978,300	\$	2,315,700 67427
7036	764033	Minor Capital Projects	\$	1,250,000	\$	1,250,000 67428
7036	764321	Operating Expense -	\$	260,744,934	\$	258,365,903 67429
		Highway Patrol				
7036	764605	Motor Carrier	\$	2,860,000	\$	2,860,000 67430
		Enforcement Expenses				
8300	761603	Salvage and Exchange -	\$	19,469	\$	20,053 67431
		Administration				
8310	761610	Information and	\$	422,084	\$	434,746 67432
		Education - Federal				<u>409,746</u>
8310	764610	Patrol - Federal	\$	2,209,936	\$	2,276,234 67433
8310	764659	Transportation	\$	5,519,333	\$	5,684,913 67434
		Enforcement - Federal				
8310	765610	EMS - Federal	\$	532,007	\$	532,007 67435
8310	769610	Food Stamp Trafficking	\$	1,546,319	\$	1,546,319 67436
		Enforcement - Federal				
		<u>Investigative Unit</u>				
		<u>Federal Reimbursement</u>				
8310	769631	Homeland Security -	\$	2,184,000	\$	2,184,000 67437
		Federal				
8320	761612	Traffic Safety -	\$	16,577,565	\$	16,577,565 67438
		Federal				
8350	762616	Financial	\$	5,457,240	\$	5,549,068 67439
		Responsibility				<u>5,274,068</u>
		Compliance				
8370	764602	Turnpike Policing	\$	11,553,959	\$	11,553,959 67440
8380	764606	Patrol Reimbursement	\$	50,000	\$	50,000 67441
83C0	764630	Contraband,	\$	622,894	\$	622,894 67442
		Forfeiture, Other				
83F0	764657	Law Enforcement	\$	9,053,266	\$	9,053,266 67443
		Automated Data System				
83G0	764633	OMVI	\$	623,230	\$	641,927 67444

		Enforcement/Education					
83J0	764693	Highway Patrol Justice	\$	2,100,000	\$	2,100,000	67445
		Contraband					
83M0	765624	Operating Expense -	\$	2,632,106	\$	2,711,069	67446
		Trauma and EMS				<u>3,204,925</u>	
<u>83M0</u>	<u>765640</u>	<u>EMS - Grants</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>4,229,819</u>	67447
83N0	761611	Elementary School Seat	\$	305,600	\$	305,600 <u>0</u>	67448
		Belt Program					
83P0	765637	EMS Grants	\$	4,106,621	\$	4,229,819 <u>0</u>	67449
83R0	762639	Local Immobilization	\$	450,000	\$	450,000	67450
		Reimbursement					
83T0	764694	Highway Patrol	\$	21,000	\$	21,000	67451
		Treasury Contraband					
8400	764607	State Fair Security	\$	1,256,655	\$	1,294,354	67452
8400	764617	Security and	\$	6,432,686	\$	6,432,686	67453
		Investigations					
8400	764626	State Fairgrounds	\$	849,883	\$	849,883	67454
		Police Force					
8400	769632	Homeland Security -	\$	737,791	\$	737,791	67455
		Operating					
8410	764603	Salvage and Exchange -	\$	1,339,399	\$	1,339,399	67456
		Highway Patrol					
8460	761625	Motorcycle Safety	\$	3,185,013	\$	3,280,563	67457
		Education					
8490	762627	Automated Title	\$	17,316,755	\$	14,335,513	67458
		Processing Board					
TOTAL	HSF	State Highway Safety Fund	\$	490,110,733	\$	481,261,100	67459
		Group				<u>480,399,356</u>	
		General Services Fund Group					67460
4P60	768601	Justice Program	\$	998,104	\$	1,028,047	67461
		Services					
4S30	766661	Hilltop Utility	\$	540,800	\$	540,800	67462
		Reimbursement					

As Pending in the House Finance and Appropriations Committee (L# 2171-5)

5ET0	768625	Drug Law Enforcement	\$	3,780,000	\$	3,893,400	67463
5Y10	764695	Highway Patrol	\$	170,000	\$	170,000	67464
		Continuing					
		Professional Training					
5Y10	767696	Investigative Unit	\$	15,000	\$	15,000	67465
		Continuing					
		Professional Training					
TOTAL	GSF	General Services Fund	\$	5,503,904	\$	5,647,247	67466
		Group					
		Federal Special Revenue Fund Group					67467
3290	763645	Federal Mitigation	\$	10,110,332	\$	10,413,642	67468
		Program					
3370	763609	Federal Disaster	\$	27,707,636	\$	27,707,636	67469
		Relief					
3390	763647	Emergency Management	\$	75,664,821	\$	77,934,765	67470
		Assistance and					
		Training					
3CB0	768691	Federal Justice	\$	200,000	\$	50,000	67471
		Grants - FFY06					
3CC0	768609	Justice Assistance	\$	583,222	\$	310,000	67472
		Grants - FFY07					
3CD0	768610	Justice Assistance	\$	310,000	\$	150,000	67473
		Grants - FFY08					
3CE0	768611	Justice Assistance	\$	865,000	\$	1,200,000	67474
		Grants - FFY09					
3CV0	768697	Justice Assistance	\$	2,000	\$	0	67475
		Grants Supplement -					
		FFY08					
3DE0	768612	Federal Stimulus -	\$	1,015,000	\$	1,015,000	67476
		Justice Assistance					
		Grants					
3DH0	768613	Federal Stimulus -	\$	150,000	\$	150,000	67477
		Justice Programs					

As Pending in the House Finance and Appropriations Committee (L# 2171-5)

3DU0	762628	BMV Grants	\$	1,525,000	\$	1,580,000	67478
						<u>1,480,000</u>	
3EU0	768614	Justice Assistance Grants - FFY10	\$	650,000	\$	920,000	67479
3L50	768604	Justice Program	\$	11,400,000	\$	11,400,000	67480
3N50	763644	U.S. Department of Energy Agreement	\$	31,672	\$	31,672	67481
TOTAL FED	Federal Special Revenue		\$	130,214,683	\$	132,862,715	67482
Fund Group						<u>132,762,715</u>	
State Special Revenue Fund Group							67483
4V30	763662	EMA Service and Reimbursement	\$	4,368,369	\$	4,499,420	67484
5390	762614	Motor Vehicle Dealers Board	\$	180,000	\$	185,400	67485
5B90	766632	Private Investigator and Security Guard Provider	\$	1,562,637	\$	1,562,637	67486
5BK0	768687	Criminal Justice Services - Operating	\$	400,000	\$	400,000	67487
5BK0	768689	Family Violence Shelter Programs	\$	750,000	\$	750,000	67488
5CM0	767691	Federal Investigative <u>Seizure Investigative</u> <u>Unit Federal</u> <u>Equitable Sharing -</u> <u>Treasury</u>	\$	300,000	\$	300,000	67489
5DS0	769630	Homeland Security	\$	1,414,384	\$	1,414,384	67490
5FF0	762621	Indigent Interlock and Alcohol Monitoring	\$	2,000,000	\$	2,000,000	67491
5FL0	769634	Investigations	\$	899,300	\$	899,300	67492
<u>5LM0</u>	<u>768698</u>	<u>Criminal Justice</u> <u>Services Law</u>	<u>\$</u>	<u>33,991</u>	<u>\$</u>	<u>816,955</u>	67493

		<u>Enforcement Support</u>					
6220	767615	Investigative	\$	375,000	\$	375,000	67494
		Contraband and					
		Forfeiture					
6570	763652	Utility Radiological	\$	1,415,945	\$	1,415,945	67495
		Safety					
6810	763653	SARA Title III HAZMAT	\$	262,438	\$	262,438	67496
		Planning					
8500	767628	Investigative Unit	\$	90,000	\$	92,700	67497
		Salvage					
TOTAL SSR State Special Revenue			\$	14,018,073	\$	14,157,224	67498
Fund Group				<u>14,052,064</u>		<u>14,974,179</u>	
Liquor Control Fund Group							67499
7043	767321	Liquor Enforcement -	\$	11,000,000	\$	11,000,000	67500
		Operating					
TOTAL LCF Liquor Control Fund Group			\$	11,000,000	\$	11,000,000	67501
Agency Fund Group							67502
5J90	761678	Federal Salvage/GSA	\$	1,500,000	\$	1,500,000	67503
TOTAL AGY Agency Fund Group			\$	1,500,000	\$	1,500,000	67504
Holding Account Redistribution Fund Group							67505
R024	762619	Unidentified Motor	\$	1,885,000	\$	1,885,000	67506
		Vehicle Receipts					
R052	762623	Security Deposits	\$	350,000	\$	350,000	67507
TOTAL 090 Holding Account			\$	2,235,000	\$	2,235,000	67508
Redistribution Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	654,582,393	\$	648,663,286	67509
				<u>654,616,384</u>		<u>648,518,497</u>	
MOTOR VEHICLE REGISTRATION							67510
The Registrar of Motor Vehicles may deposit revenues to meet							67511
the cash needs of the State Bureau of Motor Vehicles Fund (Fund							67512
4W40) established in section 4501.25 of the Revised Code, obtained							67513
under sections 4503.02 and 4504.02 of the Revised Code, less all							67514

other available cash. Revenue deposited pursuant to this paragraph 67515
shall support, in part, appropriations for operating expenses and 67516
defray the cost of manufacturing and distributing license plates 67517
and license plate stickers and enforcing the law relative to the 67518
operation and registration of motor vehicles. Notwithstanding 67519
section 4501.03 of the Revised Code, the revenues shall be paid 67520
into Fund 4W40 before any revenues obtained pursuant to sections 67521
4503.02 and 4504.02 of the Revised Code are paid into any other 67522
fund. The deposit of revenues to meet the aforementioned cash 67523
needs shall be in approximately equal amounts on a monthly basis 67524
or as otherwise determined by the Director of Budget and 67525
Management pursuant to a plan submitted by the Registrar of Motor 67526
Vehicles. 67527

CAPITAL PROJECTS 67528

The Registrar of Motor Vehicles may transfer cash from the 67529
State Bureau of Motor Vehicles Fund (Fund 4W40) to the State 67530
Highway Safety Fund (Fund 7036) to meet its obligations for 67531
capital projects CIR-047, Department of Public Safety Office 67532
Building and CIR-049, Warehouse Facility. 67533

OBA BOND AUTHORITY/LEASE RENTAL PAYMENTS 67534

The foregoing appropriation item 761401, Lease Rental 67535
Payments, shall be used for payments to the Ohio Building 67536
Authority for the period July 1, 2011, to June 30, 2013, under the 67537
primary leases and agreements for public safety related buildings 67538
financed by obligations issued under Chapter 152. of the Revised 67539
Code. Notwithstanding section 152.24 of the Revised Code, the Ohio 67540
Building Authority may, with approval of the Director of Budget 67541
and Management, lease capital facilities to the Department of 67542
Public Safety. 67543

HILLTOP TRANSFER 67544

The Director of Public Safety shall determine, per an 67545

agreement with the Director of Transportation, the share of each 67546
debt service payment made out of appropriation item 761401, Lease 67547
Rental Payments, that relates to the Department of 67548
Transportation's portion of the Hilltop Building Project, and 67549
shall certify to the Director of Budget and Management the amounts 67550
of this share. The Director of Budget and Management shall 67551
transfer the amounts of such shares from the Highway Operating 67552
Fund (Fund 7002) to the State Highway Safety Fund (Fund 7036). 67553

CASH TRANSFERS TO TRAUMA AND EMERGENCY MEDICAL SERVICES FUND 67554

On July 1, 2011, or as soon as possible thereafter, the 67555
Director of Budget and Management shall transfer the unexpended 67556
and unencumbered cash balance in the Seat Belt Education Fund 67557
(Fund 8440) to the Trauma and Emergency Medical Services Fund 67558
(Fund 83M0). Upon completion of the transfer, Fund 8440 is 67559
abolished. The Director shall cancel any existing encumbrances 67560
against appropriation item 761613, Seat Belt Education Program, 67561
and reestablish them against appropriation item 765624, Operating 67562
Expense - Trauma and EMS. The reestablished encumbrance amounts 67563
are hereby appropriated. 67564

CASH TRANSFERS BETWEEN FUNDS 67565

Notwithstanding any provision of law to the contrary, the 67566
Director of Budget and Management, upon the written request of the 67567
Director of Public Safety, may approve the transfer of cash 67568
between the following six funds: the Trauma and Emergency Medical 67569
Services Fund (Fund 83M0), the Homeland Security Fund (Fund 5DS0), 67570
the Investigations Fund (Fund 5FL0), the Emergency Management 67571
Agency Service and Reimbursement Fund (Fund 4V30), the Justice 67572
Program Services Fund (Fund 4P60), and the State Bureau of Motor 67573
Vehicles Fund (Fund 4W40). 67574

CASH TRANSFERS TO SECURITY, INVESTIGATIONS, AND POLICING FUND 67575

Notwithstanding any provision of law to the contrary, the 67576

Director of Budget and Management, upon the written request of the 67577
Director of Public Safety, may approve the transfer of cash from 67578
the Continuing Professional Training Fund (Fund 5Y10), the State 67579
Highway Patrol Contraband, Forfeiture, and Other Fund (Fund 83C0), 67580
the Trauma and Emergency Medical Services Fund (Fund 83M0), and 67581
the Highway Safety Salvage and Exchange Highway Patrol Fund (Fund 67582
8410) to the Security, Investigations, and Policing Fund (Fund 67583
8400). 67584

CASH TRANSFERS OF SEAT BELT FINE REVENUES 67585

Notwithstanding any provision of law to the contrary, the 67586
Controlling Board, upon request of the Director of Public Safety, 67587
may approve the transfer of cash between the following ~~four~~ three 67588
funds that receive fine revenues from enforcement of the mandatory 67589
seat belt law: the Trauma and Emergency Medical Services Fund 67590
(Fund 83M0), the Elementary School Program Fund (Fund 83N0), and 67591
the Trauma and Emergency Medical Services Grants Fund (Fund 83P0). 67592

STATE DISASTER RELIEF 67593

The State Disaster Relief Fund (Fund 5330) may accept 67594
transfers of cash and appropriations from Controlling Board 67595
appropriation items for Ohio Emergency Management Agency disaster 67596
response costs and disaster program management costs, and may also 67597
be used for the following purposes: 67598

(A) To accept transfers of cash and appropriations from 67599
Controlling Board appropriation items for Ohio Emergency 67600
Management Agency public assistance and mitigation program match 67601
costs to reimburse eligible local governments and private 67602
nonprofit organizations for costs related to disasters; 67603

(B) To accept and transfer cash to reimburse the costs 67604
associated with Emergency Management Assistance Compact (EMAC) 67605
deployments; 67606

(C) To accept disaster related reimbursement from federal, 67607

state, and local governments. The Director of Budget and 67608
Management may transfer cash from reimbursements received by this 67609
fund to other funds of the state from which transfers were 67610
originally approved by the Controlling Board. 67611

(D) To accept transfers of cash and appropriations from 67612
Controlling Board appropriation items to fund the State Disaster 67613
Relief Program, for disasters that have been declared by the 67614
Governor, and the State Individual Assistance Program for 67615
disasters that have been declared by the Governor and the federal 67616
Small Business Administration. The Ohio Emergency Management 67617
Agency shall publish and make available application packets 67618
outlining procedures for the State Disaster Relief Program and the 67619
State Individual Assistance Program. 67620

JUSTICE ASSISTANCE GRANT FUND 67621

The federal payments made to the state for the Byrne Justice 67622
Assistance Grants Program under Title II of Division A of the 67623
American Recovery and Reinvestment Act of 2009 shall be deposited 67624
to the credit of the Justice Assistance Grant Fund (Fund 3DE0), 67625
which is hereby created in the state treasury. All investment 67626
earnings of the fund shall be credited to the fund. 67627

FEDERAL STIMULUS - JUSTICE PROGRAMS 67628

The federal payments made to the state for the Violence 67629
Against Women Formula Grant under Title II of Division A of the 67630
American Recovery and Reinvestment Act of 2009 shall be deposited 67631
to the credit of the Federal Stimulus - Justice Programs Fund 67632
(Fund 3DH0). 67633

TRANSFER FROM STATE FIRE MARSHAL FUND TO EMERGENCY MANAGEMENT 67634
AGENCY SERVICE AND REIMBURSEMENT FUND 67635

On July 1 of each fiscal year, or as soon as possible 67636
thereafter, the Director of Budget and Management shall transfer 67637
\$200,000 in cash from the State Fire Marshal Fund (Fund 5460) to 67638

the Emergency Management Agency Service and Reimbursement Fund 67639
(Fund 4V30) to be distributed to the Ohio Task Force One - Urban 67640
Search and Rescue Unit and other urban search and rescue programs 67641
around the state. 67642

FAMILY VIOLENCE PREVENTION FUND 67643

Notwithstanding any provision of law to the contrary, in each 67644
of fiscal years 2012 and 2013, the first \$750,000 received to the 67645
credit of the Family Violence Prevention Fund (Fund 5BK0) shall be 67646
appropriated to appropriation item 768689, Family Violence Shelter 67647
Programs, and the next \$400,000 received to the credit of Fund 67648
5BK0 in each of those fiscal years shall be appropriated to 67649
appropriation item 768687, Criminal Justice Services - Operating. 67650
Any moneys received to the credit of Fund 5BK0 in excess of the 67651
aforementioned appropriated amounts in each fiscal year shall, 67652
upon the approval of the Controlling Board, be used to provide 67653
grants to family violence shelters in Ohio. 67654

SARA TITLE III HAZMAT PLANNING 67655

The SARA Title III HAZMAT Planning Fund (Fund 6810) is 67656
entitled to receive grant funds from the Emergency Response 67657
Commission to implement the Emergency Management Agency's 67658
responsibilities under Chapter 3750. of the Revised Code. 67659

COLLECTIVE BARGAINING INCREASES 67660

Notwithstanding division (D) of section 127.14 and division 67661
(B) of section 131.35 of the Revised Code, except for the General 67662
Revenue Fund, the Controlling Board may, upon the request of 67663
either the Director of Budget and Management, or the Department of 67664
Public Safety with the approval of the Director of Budget and 67665
Management, increase appropriations for any fund, as necessary for 67666
the Department of Public Safety, to assist in paying the costs of 67667
increases in employee compensation that have occurred pursuant to 67668
collective bargaining agreements under Chapter 4117. of the 67669

Revised Code and, for exempt employees, under section 124.152 of the Revised Code. 67670
 67671

CASH BALANCE FUND REVIEW 67672

Not later than the first day of April in each fiscal year of the biennium, the Director of Budget and Management shall review the cash balances for each fund, except the State Highway Safety Fund (Fund 7036) and the State Bureau of Motor Vehicles Fund (Fund 4W40), in the State Highway Safety Fund Group, and shall recommend to the Controlling Board an amount to be transferred to the credit of Fund 7036 or Fund 4W40, as appropriate. 67673
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Section 601.11. That existing Section 205.10 of Am. Sub. H.B. 114 of the 129th General Assembly, as amended by Am. Sub. H.B. 153 of the 129th General Assembly, is hereby repealed. 67680
 67681
 67682

Section 601.20. That Section 201 of Sub. H.B. 123 of the 129th General Assembly be amended to read as follows: 67683
 67684

Sec. 201. All items in Sections 201 and 203 of this act are hereby appropriated out of any moneys in the state treasury to the credit of the designated fund. For all appropriations made in this act, those in the first column are for fiscal year 2012, and those in the second column are for fiscal year 2013. 67685
 67686
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 67689

FND AI	AI TITLE	Appropriations		
	BWC BUREAU OF WORKERS' COMPENSATION			67690
	Workers' Compensation Fund Group			67691
7023 855401	William Green Lease	\$ 18,291,365	\$ 17,533,370	67692
	Payments to OBA			
7023 855407	Claims, Risk and Medical Management	\$ 125,427,732	\$ 124,192,959 <u>122,492,959</u>	67693 67694
7023 855408	Fraud Prevention	\$ 11,331,154	\$ 11,164,226	67695
7023 855409	Administrative	\$ 101,724,950	\$ 104,136,037	67696

		Services			<u>103,346,037</u>	
7023	855410	Attorney General	\$	4,621,850	\$	4,621,850 67697
		Payments				
8220	855606	Coal Workers' Fund	\$	150,586	\$	147,666 67698
8230	855608	Marine Industry	\$	76,532	\$	75,527 67699
8250	855605	Disabled Workers	\$	322,266	\$	319,718 67700
		Relief Fund				
8260	855609	Safety and Hygiene	\$	20,382,567	\$	20,161,132 67701
		Operating				
8260	855610	Gear Program	\$	4,000,000	\$	4,000,000 67702
8290	855604	Long Term Care Loan	\$	1,000,000	\$	1,000,000 67703
		Program				<u>100,000</u>
TOTAL WCF Workers' Compensation						67704
Fund Group			\$	287,329,002	\$	287,352,485 67705
						<u>283,962,485</u>
Federal Special Revenue Fund Group						67706
3490	855601	OSHA Enforcement	\$	1,670,998	\$	1,647,515 67707
TOTAL FED Federal Special Revenue			\$	1,670,998	\$	1,647,515 67708
Fund Group						
TOTAL ALL BUDGET FUND GROUPS			\$	289,000,000	\$	289,000,000 67709
						<u>285,610,000</u>

WILLIAM GREEN LEASE PAYMENTS 67710

The foregoing appropriation item 855401, William Green Lease 67711
 Payments to OBA, shall be used for lease payments to the Ohio 67712
 Building Authority, and these appropriations shall be used to meet 67713
 all payments at the times they are required to be made during the 67714
 period from July 1, 2011, to June 30, 2013, by the Bureau of 67715
 Workers' Compensation to the Ohio Building Authority pursuant to 67716
 leases and agreements made under Chapter 152. of the Revised Code 67717
 and Section 6 of Am. Sub. H.B. 743 of the 118th General Assembly. 67718
 Of the amounts received in Fund 7023, appropriation item 855401, 67719
 William Green Lease Payments to OBA, up to \$35,824,735 shall be 67720

restricted for lease rental payments to the Ohio Building Authority. If it is determined that additional appropriations are necessary for such purpose, such amounts are hereby appropriated.

Notwithstanding any provision of law to the contrary, all tenants of the William Green Building not funded by the Workers' Compensation Fund (Fund 7023) shall pay their fair share of the costs of lease payments to the Workers' Compensation Fund (Fund 7023) by intrastate transfer voucher.

WORKERS' COMPENSATION FRAUD UNIT

The Workers' Compensation Section Fund (Fund 1950) administered by the Attorney General shall receive payments from the Bureau of Workers' Compensation at the beginning of each quarter of each fiscal year to fund expenses of the Workers' Compensation Fraud Unit within the Attorney General's Office. Of the foregoing appropriation item 855410, Attorney General Payments, \$828,200 in fiscal year 2012 and \$828,200 in fiscal year 2013 shall be used to provide these payments.

SAFETY AND HYGIENE

Notwithstanding section 4121.37 of the Revised Code, the Treasurer of State shall transfer \$20,382,567 cash in fiscal year 2012 and \$20,161,132 cash in fiscal year 2013 from the State Insurance Fund to the Safety and Hygiene Fund (Fund 8260).

OSHA ON-SITE CONSULTATION PROGRAM

The Bureau of Workers' Compensation may designate a portion of appropriation item 855609, Safety and Hygiene Operating, to be used to match federal funding for the federal Occupational Safety and Health Administration's (OSHA) on-site consultation program.

VOCATIONAL REHABILITATION

The Bureau of Workers' Compensation and the Rehabilitation Services Commission shall enter into an interagency agreement for

the provision of vocational rehabilitation services and staff to 67751
 mutually eligible clients. The bureau shall provide \$605,407 in 67752
 fiscal year 2012 and \$605,407 in fiscal year 2013 from the State 67753
 Insurance Fund to fund vocational rehabilitation services and 67754
 staff in accordance with the interagency agreement. 67755

FUND BALANCE 67756

Any unencumbered cash balance in excess of \$45,000,000 in the 67757
 Workers' Compensation Fund (Fund 7023) on the thirtieth day of 67758
 June of each fiscal year shall be used to reduce the 67759
 administrative cost rate charged to employers to cover 67760
 appropriations for Bureau of Workers' Compensation operations. 67761

Section 601.21. That existing Section 201 of Sub. H.B. 123 of 67762
 the 129th General Assembly is hereby repealed. 67763

Section 601.30. That Section 1 of H.B. 124 of the 129th 67764
 General Assembly be amended to read as follows: 67765

Sec. 1. All items in this section are hereby appropriated out 67766
 of any moneys in the state treasury to the credit of the 67767
 designated fund. For all appropriations made in this section, 67768
 those in the first column are for fiscal year 2012, and those in 67769
 the second column are for fiscal year 2013. 67770

		Appropriations		
FND AI	AI TITLE	FY 2012	FY 2013	
OIC INDUSTRIAL COMMISSION 67773				
Workers' Compensation Fund Group 67774				
5W30 845321	Operating Expenses	\$ 50,100,000	\$ 48,900,000 <u>47,732,000</u>	67775
5W30 845402	Rent - William Green Building	\$ 5,500,000	\$ 5,500,000	67776
5W30 845410	Attorney General	\$ 3,900,000	\$ 4,000,000	67777

Payments

TOTAL WCF Workers' Compensation				67778
Fund Group	\$	59,500,000	\$ 58,400,000	67779
			<u>57,232,000</u>	
TOTAL ALL BUDGET FUND GROUPS	\$	59,500,000	\$ 58,400,000	67780
			<u>57,232,000</u>	

RENT - WILLIAM GREEN BUILDING 67781

The foregoing appropriation item 845402, Rent - William Green Building, shall be used for rent and operating expenses for the space occupied by the Industrial Commission in the William Green Building. 67782
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 67784
 67785

Section 601.31. That existing Section 1 of H.B. 124 of the 129th General Assembly is hereby repealed. 67786
 67787

Section 601.40. That Sections 205.10, 207.10, 207.10.80, 207.20.10, 207.20.30, 207.20.90, 209.10, 209.20, 211.10, 215.10, 215.20, 223.10, 229.10, 243.10, 261.10.40, 261.10.70, 261.20.10, 261.20.40, 261.20.50, 261.20.60, 261.20.80, 261.20.90, 261.30.10, 261.30.20, 261.30.30, 261.30.40, 261.30.60, 261.30.70, 261.30.80, 261.30.90, 261.40.10, 263.10, 263.10.30, 263.10.90, 263.20.40, 263.20.70, 267.10, 267.10.10, 267.10.20, 267.10.40, 267.30.20, 267.30.40, 279.10, 291.10, 307.10, 309.10, 309.30.30, 309.30.33, 309.35.73, 315.10, 327.10, 335.10, 337.10, 343.10, 365.10, 367.10, 369.10, 371.10, 371.50.61, 371.60.80, 373.10, 375.10, 379.10, 387.10, 403.10, 411.10, 415.10, 503.50, 521.70, and 701.40 of Am. Sub. H.B. 153 of the 129th General Assembly be amended to read as follows: 67788
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Sec. 205.10. ADJ ADJUTANT GENERAL 67801

General Revenue Fund 67802
 GRF 745401 Ohio Military Reserve \$ 12,308 \$ 12,308 67803

As Pending in the House Finance and Appropriations Committee (L# 2171-5)

GRF	745404	Air National Guard	\$	1,810,606	\$	1,810,606	67804
GRF	745407	National Guard	\$	400,000	\$	400,000	67805
		Benefits					
GRF	745409	Central	\$	2,692,098	\$	2,692,098	67806
		Administration				<u>2,682,098</u>	
GRF	745499	Army National Guard	\$	3,687,888	\$	3,689,871	67807
TOTAL GRF		General Revenue Fund	\$	8,602,900	\$	8,604,883	67808
						<u>8,594,883</u>	
		General Services Fund Group					67809
5340	745612	Property Operations	\$	534,304	\$	534,304	67810
		Management					
5360	745605	Marksmanship	\$	128,600	\$	128,600	67811
		Activities					
5360	745620	Camp Perry and	\$	1,178,311	\$	978,846	67812
		Buckeye Inn					
		Operations					
5370	745604	Ohio National Guard	\$	62,000	\$	62,000	67813
		Facilities					
		Maintenance					
TOTAL GSF		General Services Fund	\$	1,903,215	\$	1,703,750	67814
		Group					
		Federal Special Revenue Fund Group					67815
3410	745615	Air National Guard	\$	2,977,692	\$	2,977,692	67816
		Base Security					
3420	745616	Army National Guard	\$	10,970,050	\$	10,970,050	67817
		Service Agreement					
3E80	745628	Air National Guard	\$	16,958,595	\$	16,958,595	67818
		Operations and					
		Maintenance					
3R80	745603	Counter Drug	\$	25,000	\$	25,000	67819
		Operations					
TOTAL FED		Federal Special Revenue	\$	30,931,337	\$	30,931,337	67820

Fund Group

State Special Revenue Fund Group 67821

5U80 745613 Community Match \$ 250,000 \$ 250,000 67822

Armories

TOTAL SSR State Special Revenue \$ 250,000 \$ 250,000 67823

Fund Group

TOTAL ALL BUDGET FUND GROUPS \$ 41,687,452 \$ ~~41,489,970~~ 67824

41,479,970

NATIONAL GUARD BENEFITS 67825

The foregoing appropriation item 745407, National Guard 67826
 Benefits, shall be used for purposes of sections 5919.31 and 67827
 5919.33 of the Revised Code, and for administrative costs of the 67828
 associated programs. 67829

For active duty members of the Ohio National Guard who died 67830
 after October 7, 2001, while performing active duty, the death 67831
 benefit, pursuant to section 5919.33 of the Revised Code, shall be 67832
 paid to the beneficiary or beneficiaries designated on the 67833
 member's Servicemembers' Group Life Insurance Policy. 67834

STATE ACTIVE DUTY COSTS 67835

Of the foregoing appropriation item 745409, Central 67836
 Administration, \$50,000 in each fiscal year shall be used for the 67837
 purpose of paying expenses related to state active duty of members 67838
 of the Ohio organized militia, in accordance with a proclamation 67839
 of the Governor. Expenses include, but are not limited to, the 67840
 cost of equipment, supplies, and services, as determined by the 67841
 Adjutant General's Department. 67842

Sec. 207.10. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES 67843

General Revenue Fund 67844

GRF 100403 Public Employees \$ 400,000 \$ ~~400,000~~ 67845

Health Care Program 344,000

As Pending in the House Finance and Appropriations Committee (L# 2171-5)

GRF	100415	OAKS Rental Payments	\$	23,024,500	\$	23,006,300	67846
GRF	100416	STARS Lease Rental Payments	\$	4,970,700	\$	4,971,300	67847
GRF	100418	Web Sites and Business Gateway	\$	2,895,063	\$	2,795,176 0	67848
GRF	100419	IT Security Infrastructure	\$	742,535	\$	742,648 0	67849
GRF	100439	Equal Opportunity Certification Programs	\$	625,000	\$	625,000 0	67850
GRF	100447	OBA - Building Rent Payments	\$	53,260,000	\$	83,504,200	67851
GRF	100448	OBA - Building Operating Payments	\$	21,000,000	\$	21,000,000	67852
GRF	100449	DAS - Building Operating Payments	\$	7,551,245	\$	7,551,571	67853
GRF	100451	Minority Affairs	\$	24,016	\$	24,016 0	67854
<u>GRF</u>	<u>100452</u>	<u>Efficiency & Results Program</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>650,000</u>	67855
<u>GRF</u>	<u>100456</u>	<u>State IT Services</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>3,537,824</u>	67856
<u>GRF</u>	<u>100457</u>	<u>Equal Opportunity Services</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>1,610,516</u>	67857
<u>GRF</u>	<u>100458</u>	<u>State Construction Management Services</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>2,745,751</u>	67858
GRF	102321	Construction Compliance	\$	920,000	\$	920,000 0	67859
GRF	130321	State Agency Support Services	\$	2,779,457	\$	2,780,032 2,752,232	67860
TOTAL GRF	General Revenue Fund		\$	118,192,516	\$	148,320,243 <u>151,673,694</u>	67861
General Services Fund Group							67862
1120	100616	DAS Administration	\$	5,974,625	\$	5,886,524 <u>5,827,659</u>	67863
1150	100632	Central Service Agency	\$	911,995	\$	912,305	67864

					<u>903,182</u>		
1170	100644	General Services	\$	13,000,000	\$	13,000,000	67865
		Division - Operating					
1220	100637	Fleet Management	\$	3,978,827	\$	4,204,066	67866
						<u>4,412,025</u>	
1250	100622	Human Resources	\$	16,922,295	\$	16,717,009	67867
		Division - Operating				<u>16,549,839</u>	
1250	100657	Benefits Communication	\$	925,586	\$	921,531	67868
						<u>912,316</u>	
1280	100620	Collective Bargaining	\$	3,462,529	\$	3,464,148	67869
						<u>3,429,507</u>	
1300	100606	Risk Management	\$	10,349,494	\$	12,149,884	67870
		Reserve				<u>12,028,385</u>	
1310	100639	State Architect's	\$	9,812,132	\$	9,813,342	67871
		Office				<u>9,463,342</u>	
1320	100631	DAS Building	\$	11,000,000	\$	11,000,000	67872
		Management					
1330	100607	IT Services Delivery	\$	58,088,940	\$	58,103,005	67873
						<u>57,521,975</u>	
1880	100649	Equal Opportunity	\$	939,559	\$	863,013	67874
		Division - Operating					
2100	100612	State Printing	\$	17,597,054	\$	16,659,526	67875
2290	100630	IT Governance	\$	14,000,000	\$	14,000,000	67876
2290	100640	Leveraged Enterprise	\$	3,000,000	\$	3,000,000	67877
		Purchases				<u>2,816,535</u>	
4270	100602	Investment Recovery	\$	4,100,000	\$	4,100,000	67878
						<u>4,000,000</u>	
4N60	100617	Major IT Purchases	\$	1,950,000	\$	4,950,000	67879
4P30	100603	DAS Information	\$	5,047,565	\$	4,979,392	67880
		Services				<u>4,929,598</u>	
5C20	100605	MARCS Administration	\$	14,075,705	\$	14,077,467	67881
5C30	100608	Skilled Trades	\$	404,297	\$	404,375	67882
						<u>204,375</u>	

5EB0 100635	OAKS Support Organization	\$ 19,000,539	\$ 19,003,108 <u>18,813,077</u>	67883
5EB0 100656	OAKS Updates and Developments	\$ 12,265,952	\$ 8,743,462 <u>8,656,027</u>	67884
5HU0 100655	Construction Reform Demo Compliance	\$ 150,000	\$ 150,000	67885
5L70 100610	Professional Development	\$ 2,496,679	\$ 2,496,760	67886
5V60 100619	Employee Educational Development	\$ 800,000	\$ 850,000	67887
5X30 100634	Centralized Gateway Enhancement	\$ 2,052,308	\$ 2,052,308	67888
TOTAL GSF General Services Fund Group		\$ 232,306,081	\$ 232,501,225 <u>230,566,916</u>	67889 67890
Federal Special Revenue Fund Group				67891
3AJ0 100654	ARRA Broadband Mapping Grant	\$ 270,756	\$ 106,347	67892
TOTAL FED Federal Special Revenue Fund Group		\$ 270,756	\$ 106,347	67893 67894
State Special Revenue Fund Group				67895
5JQ0 100658	Professions <u>Professionals</u> Licensing System	\$ 2,000,000	\$ 1,000,000 <u>990,000</u>	67896
TOTAL SSR State Special Revenue Fund Group		\$ 2,000,000	\$ 1,000,000 <u>990,000</u>	67897 67898
TOTAL ALL BUDGET FUND GROUPS		\$ 352,769,353	\$ 381,927,815 <u>383,336,957</u>	67899

Sec. 207.10.80. DAS - BUILDING OPERATING PAYMENTS 67901

The foregoing appropriation item 100449, DAS - Building 67902

Operating Payments, shall be used to pay the rent expenses of 67903
veterans organizations pursuant to section 123.024 of the Revised 67904
Code in fiscal years 2012 and 2013. 67905

The foregoing appropriation item, 100449, DAS - Building 67906
Operating Payments, also may be used to provide funding for the 67907
cost of property appraisals or building studies that the 67908
Department of Administrative Services may be required to obtain 67909
for property that is being sold by the state or property under 67910
consideration to be renovated or purchased by the state. 67911

Notwithstanding section 125.28 of the Revised Code, the 67912
remaining portion of the appropriation may be used to pay the 67913
operating expenses of state facilities maintained by the 67914
Department of Administrative Services that are not billed to 67915
building tenants, or other costs associated with the Voinovich 67916
Center in Youngstown, Ohio. These expenses may include, but are 67917
not limited to, the costs for vacant space and space undergoing 67918
renovation, and the rent expenses of tenants that are relocated 67919
because of building renovations. These payments shall be processed 67920
by the Department of Administrative Services through intrastate 67921
transfer vouchers and placed in the Building Management Fund (Fund 67922
1320). 67923

STATE IT SERVICES 67924

The foregoing appropriation item 100456, State IT Services, 67925
shall be used to pay costs associated with the Ohio Business 67926
Gateway, State Portal, and Shared Hosting Service that were 67927
formerly paid from appropriation item 100418, Web Sites and 67928
Business Gateway, and costs associated with statewide operators 67929
and the Ohio Geographically Referenced Information Program that 67930
were formerly paid from appropriation item 100419, IT Security 67931
Infrastructure. The Director of Budget and Management shall cancel 67932
any existing encumbrances against appropriation items 100418, Web 67933
Site and Business Gateway and 100419, IT Security Infrastructure, 67934

and reestablish them against appropriation item 100456, State IT Services. The reestablished encumbrance amounts are hereby appropriated. 67935
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EQUAL OPPORTUNITY SERVICES 67938

The foregoing appropriation item 100457, Equal Opportunity Services, shall be used to pay costs associated with the certification of businesses for participation in the Minority Business Enterprise and Encouraging Diversity, Growth and Equity Programs that were formerly paid from appropriation item 100439, Equal Opportunity Certification Programs; the activities of the Ohio Dr. Martin Luther King, Jr. Holiday Commission that were formerly paid from appropriation item 100451, Minority Affairs; and the monitoring of equal employment opportunity (EEO) and affirmative action requirements to ensure contractors bidding on and receiving contracts comply with EEO laws, rules, and regulations that were formerly paid from appropriation item 102321, Construction Compliance. The Director of Budget and Management shall cancel any existing encumbrances against appropriation items 100439, Equal Opportunity Certification Programs; 100451, Minority Affairs; and 102321, Construction Compliance, and reestablish them against appropriation item 100457, Equal Opportunity Services. The reestablished encumbrance amounts are hereby appropriated. 67939
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STATE CONSTRUCTION MANAGEMENT SERVICES 67958

The foregoing appropriation item 100458, State Construction Management Services, shall be used to pay costs of statewide shared construction-related services and capital improvement project management services provided through the state's enterprise resource planning system. 67959
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CASH TRANSFER FROM THE WORKFORCE DEVELOPMENT FUND TO THE HUMAN RESOURCES SERVICES FUND 67964
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Upon request of the Director of Administrative Services, in 67966
FY 2013, the Director of Budget and Management shall transfer up 67967
to \$975,000 from the Workforce Development Fund (Fund 5D70) to the 67968
Human Resources Services Fund (Fund 1250) to support one-time 67969
human resources administration activities for state agencies. 67970

Sec. 207.20.10. GENERAL SERVICE CHARGES 67971

The Department of Administrative Services, with the approval 67972
of the Director of Budget and Management, shall establish charges 67973
for recovering the costs of administering the programs funded by 67974
the General Services Fund (Fund 1170) and the State Printing Fund 67975
(Fund 2100). Such charges within Fund 1170 may be used to recover 67976
the cost of paying a vendor to establish reduced pricing for 67977
contracted supplies or services. 67978

If the Director of Administrative Services determines that 67979
additional amounts are necessary to pay for consulting and 67980
administrative costs related to securing lower pricing, the 67981
Director of Administrative Services may request that the Director 67982
of Budget and Management approve additional expenditures. Such 67983
approved additional amounts are appropriated to appropriation item 67984
100644, General Services Division-Operating. 67985

COMPRESSED NATURAL GAS STUDY COMMITTEE 132 67986

Of the foregoing appropriation item 100637, Fleet Management, 67987
up to \$250,000 in fiscal year 2013 shall be used by the Compressed 67988
Natural Gas Study Committee, created by Section 701.80 of this 67989
act, to examine the use of compressed natural gas in the state's 67990
motor vehicle fleet. 67991

Sec. 207.20.30. EQUAL OPPORTUNITY PROGRAM 67992

The Department of Administrative Services, with the approval 67993
of the Director of Budget and Management, shall establish charges 67994
for recovering the costs of administering the activities supported 67995

by the State EEO Fund (Fund 1880). These charges shall be 67996
deposited to the credit of the State EEO Fund (Fund 1880) upon 67997
payment made by state agencies, state-supported or state-assisted 67998
institutions of higher education, and tax-supported agencies, 67999
municipal corporations, and other political subdivisions of the 68000
state, for services rendered. 68001

LEVERAGED ENTERPRISE PURCHASES 68002

The foregoing appropriation item 100640, Leveraged Enterprise 68003
Purchases, shall be used by the Department of Administrative 68004
Services to make information technology purchases for the benefit 68005
of one or more government entities as authorized under division 68006
(G) of section 125.18 of the Revised Code. If the Director of 68007
Administrative Services determines that the existing appropriation 68008
is insufficient to timely make such purchases, the Director of 68009
Administrative Services shall seek the approval of the Director of 68010
Budget and Management to make the requested purchases. Upon the 68011
approval of the Director of Budget and Management, the additional 68012
amounts necessary to make the purchases are hereby appropriated. 68013

~~Sec. 207.20.90. CASH TRANSFERS FROM THE MAJOR IT PURCHASES 68014
FUND 68015~~

~~Upon request of the Director of Administrative Services, the 68016
Director of Budget and Management may make the following transfers 68017
from the Major IT Purchases Fund (Fund 4N60): 68018~~

~~(1) Up to \$2,800,000 in each fiscal year of the biennium to 68019
the State Architect's Fund (Fund 1310) to support the OAKS Capital 68020
Improvements Module and other costs of the State Architect's 68021
Office that are not directly related to capital projects managed 68022
by the State Architect; 68023~~

~~(2) Up to \$310,276 in fiscal year 2012 and up to \$305,921 in 68024
fiscal year 2013 to the Director's Office Fund (Fund 1120) to 68025~~

~~support operating expenses of the Accountability and Results Initiative.~~ 68026
 68027

CASH TRANSFERS TO THE MAJOR IT PURCHASES FUND 68028

Upon request of the Director of Administrative Services, the Director of Budget and Management may transfer up to \$4,000,000 from the OAKS Support Organization Fund (Fund 5EB0) to the Major IT Purchases Fund (Fund 4N60). This amount represents cash transferred from Fund 4N60 during fiscal year 2010 pursuant to Section 207.30.80 of Am. Sub. H.B. 1 of the 128th General Assembly. Any portion of appropriation item 100617, Major IT Purchases, that is unencumbered and unexpended at the end of fiscal year 2012 is hereby reappropriated for fiscal year 2013. 68029
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Sec. 209.10. AGE DEPARTMENT OF AGING 68038

General Revenue Fund 68039

GRF 490321	Operating Expenses	\$ 1,501,616	\$ 1,502,442	68040
			<u>1,487,418</u>	

GRF 490410	Long-Term Care Ombudsman	\$ 482,271	\$ 482,271	68041
			<u>477,448</u>	

GRF 490411	Senior Community Services	\$ 7,130,952	\$ 7,131,236	68042
			<u>7,060,844</u>	

GRF 490414	Alzheimer's Respite	\$ 1,917,740	\$ 1,917,757	68043
			<u>1,895,245</u>	

GRF 490423	Long-Term Care Budget - State	\$ 3,419,250	\$ 3,419,250	68044
			<u>3,385,057</u>	

GRF 490506	National Senior Service Corps	\$ 241,413	\$ 241,413	68045
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TOTAL GRF General Revenue Fund		\$ 14,693,242	\$ 14,694,369	68046
			<u>14,547,425</u>	

General Services Fund Group 68047

4800 490606	Senior Community	\$ 372,518	\$ 372,523	68048
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Outreach and				
Education				
TOTAL GSF General Services Fund				68049
Group	\$	372,518	\$ 372,523	68050
Federal Special Revenue Fund Group				68051
3220 490618 Federal Aging Grants	\$	14,000,000	\$ 14,000,000	68052
3C40 490623 Long_Term Care Budget	\$	3,525,000	\$ 3,525,000	68053
3M40 490612 Federal Independence	\$	63,655,080	\$ 63,655,080	68054
Services				
TOTAL FED Federal Special Revenue				68055
Fund Group	\$	81,180,080	\$ 81,180,080	68056
State Special Revenue Fund Group				68057
4C40 490609 Regional Long-Term	\$	935,000	\$ 935,000	68058
Care Ombudsman				
Program				
5BA0 490620 Ombudsman Support	\$	750,000	\$ 750,000	68059
5K90 490613 Long_Term Care	\$	1,059,400	\$ 1,059,400	68060
Consumers Guide				
5W10 490616 Resident Services	\$	344,692	\$ 344,700	68061
Coordinator Program				
TOTAL SSR State Special Revenue				68062
Fund Group	\$	3,089,092	\$ 3,089,100	68063
TOTAL ALL BUDGET FUND GROUPS	\$	99,334,932	\$ 99,336,072	68064
			<u>99,189,128</u>	

Sec. 209.20. LONG-TERM CARE 68066

Pursuant to an interagency agreement, the Department of Job 68067
 and Family Services ~~shall~~ may designate the Department of Aging to 68068
 perform assessments under section 5111.204 of the Revised Code. 68069
 The Department of Aging shall provide long-term care consultations 68070
 under section 173.42 of the Revised Code to assist individuals in 68071
 planning for their long-term health care needs. 68072

The Department of Aging shall administer the Medicaid 68073
 waiver-funded PASSPORT Home Care Program, the Choices Program, the 68074
 Assisted Living Program, and the PACE Program as delegated by the 68075
 Department of Job and Family Services in an interagency agreement. 68076
 The foregoing appropriation items 490423, Long_Term Care Budget - 68077
 State, and 490623, Long_Term Care Budget, may be used to support 68078
 the Department of Aging's administrative costs associated with 68079
 operating the PASSPORT, Choices, Assisted Living, and PACE 68080
 programs. 68081

Sec. 211.10. AGR DEPARTMENT OF AGRICULTURE 68082

General Revenue Fund 68083

GRF 700401	Animal Disease Control	\$	3,936,687	\$	3,936,687	68084
					<u>3,836,687</u>	

GRF 700403	Dairy Division	\$	1,088,115	\$	1,088,115	68085
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GRF 700404	Ohio Proud	\$	50,000	\$	50,000	68086
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GRF 700406	Consumer Analytical Lab	\$	1,287,556	\$	1,287,556	68087
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GRF 700407	Food Safety	\$	848,792	\$	848,792	68088
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GRF 700409	Farmland Preservation	\$	72,750	\$	72,750	68089
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GRF 700412	Weights and Measures	\$	600,000	\$	600,000	68090
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GRF 700415	Poultry Inspection	\$	392,978	\$	392,978	68091
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GRF 700418	Livestock Regulation Program	\$	1,108,071	\$	1,108,071	68092
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GRF 700424	Livestock Testing and Inspections	\$	102,770	\$	102,770	68093
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GRF 700499	Meat Inspection Program - State Share	\$	4,175,097	\$	4,175,097	68094
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GRF 700501	County Agricultural Societies	\$	391,413	\$	391,413	68095
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TOTAL GRF General Revenue Fund		\$	14,054,229	\$	14,054,229	68096
					<u>13,954,229</u>	

General Services Fund Group					68097	
5DA0 700644	Laboratory	\$	1,094,867	\$	1,094,867	68098
	Administration					
	Support					
5GH0 700655	Central Support	\$	4,456,842	\$	4,456,842	68099
	Indirect Cost					
TOTAL GSF General Services Fund		\$	5,551,709	\$	5,551,709	68100
Group						
Federal Special Revenue Fund Group					68101	
3260 700618	Meat Inspection	\$	4,950,000	\$	4,950,000	68102
	Program - Federal					
	Share					
3360 700617	Ohio Farm Loan	\$	150,000	\$	150,000	68103
	Revolving Fund					
3820 700601	Cooperative Contracts	\$	2,000,000	\$	2,000,000	68104
3AB0 700641	Agricultural Easement	\$	1,000,000	\$	1,000,000	68105
3J40 700607	Indirect Cost	\$	600,000	\$	600,000	68106
3R20 700614	Federal Plant	\$	1,000,000	\$	1,000,000	68107
	Industry					
TOTAL FED Federal Special Revenue					68108	
Fund Group		\$	9,700,000	\$	9,700,000	68109
State Special Revenue Fund Group					68110	
4960 700626	Ohio Grape Industries	\$	846,611	\$	846,611	68111
4970 700627	Commodity Handlers	\$	483,402	\$	483,402	68112
	Regulatory Program					
4C90 700605	Commercial Feed and	\$	1,816,897	\$	1,816,897	68113
	Seed					
4D20 700609	Auction Education	\$	41,000	\$	41,000	68114
4E40 700606	Utility Radiological	\$	131,785	\$	131,785	68115
	Safety					
4P70 700610	Food Safety	\$	1,085,836	\$	1,085,836	68116
	Inspection					

As Pending in the House Finance and Appropriations Committee (L# 2171-5)

4R00	700636	Ohio Proud Marketing	\$	30,500	\$	30,500	68117
4R20	700637	Dairy Industry Inspection	\$	1,758,247	\$	1,758,247	68118
4T60	700611	Poultry and Meat Inspection	\$	180,000	\$	180,000	68119
4T70	700613	Ohio Proud International and Domestic Market Development	\$	50,000	\$	50,000	68120
5780	700620	Ride Inspection Fees	\$	1,175,142	\$	1,175,142	68121
5B80	700629	Auctioneers	\$	359,823	\$	359,823	68122
5FC0	700648	Plant Pest Program	\$	1,164,000	\$	1,164,000	68123
5H20	700608	Metrology Lab and Scale Certification	\$	750,000	\$	750,000	68124
5HP0	700656	Livestock Care Standards Board	\$	80,000	\$	80,000	68125
5L80	700604	Livestock Management Program	\$	584,000	\$	584,000	68126
6520	700634	Animal and Consumer Analytical Laboratory	\$	4,366,383	\$	4,366,383	68127
6690	700635	Pesticide, Fertilizer, and Lime Inspection Program	\$	3,418,041	\$	3,418,041	68128
TOTAL SSR State Special Revenue							68129
Fund Group			\$	18,321,667	\$	18,321,667	68130
Clean Ohio Conservation Fund Group							68131
7057	700632	Clean Ohio Agricultural Easement	\$	310,000	\$	310,000	68132
TOTAL CLF Clean Ohio Conservation Fund Group			\$	310,000	\$	310,000	68133
TOTAL ALL BUDGET FUND GROUPS			\$	47,937,605	\$	47,937,605 <u>47,837,605</u>	68134
COUNTY AGRICULTURAL SOCIETIES							68135

The foregoing appropriation item 700501, County Agricultural Societies, shall be used to reimburse county and independent agricultural societies for expenses related to Junior Fair activities.

ABOLISHMENT OF VARIOUS FUNDS

Upon the effective date of this amendment, or as soon as possible thereafter, the Director of Budget and Management shall transfer the cash balances in the following twelve funds to the Indirect Cost Fund (Fund 5GH0): (1) the Federal Grants Fund (Fund 3X60), (2) the Specialty Crops Support Fund (Fund 3X70), (3) the Fruits and Vegetables Fund (Fund 4930), (4) the Dairy Fund (Fund 4V00), (5) the Animal Industry Fund (Fund 4VS0), (6) the Scale Certification Fund (Fund 5790), (7) the Weights and Measures Permits Fund (Fund 58F0), (8) the Food Policy Council Fund (Fund 5FD0), (9) the Sustainable Agriculture Fund (Fund 5FE0), (10) the Pilot Farmland Preservation Fund (Fund 5GS0), (11) the Farm Service Electronic Filing Fund (Fund SY70), and (12) the Seed Fund (Fund SZ40). Upon completion of the cash transfers, the funds from which the required cash transfers were made are abolished. The Director shall cancel any existing encumbrances against applicable line items within the abolished funds and re-establish them against Fund 5GH0 appropriation item 700655, Central Support Indirect Cost. The re-established encumbrance amounts are hereby appropriated.

CLEAN OHIO AGRICULTURAL EASEMENT

The foregoing appropriation item 700632, Clean Ohio Agricultural Easement, shall be used by the Department of Agriculture in administering Ohio Agricultural Easement Fund (Fund 7057) projects pursuant to sections 901.21, 901.22, and 5301.67 to 5301.70 of the Revised Code.

Sec. 215.10. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION

SERVICES					68167
General Revenue Fund					68168
GRF 038401 Treatment Services	\$	11,225,590	\$	7,020,974	68169
GRF 038404 Prevention Services	\$	868,659	\$	868,659	68170
GRF 038501 Medicaid Match	\$	23,959,113	\$	0	68171
TOTAL GRF General Revenue Fund	\$	36,053,362	\$	7,889,633	68172
General Services Fund					68173
5T90 038616 Problem Gambling	\$	335,000	\$	335,000	68174
Services					
TOTAL GSF General Services Fund	\$	335,000	\$	335,000	68175
Group					
Federal Special Revenue Fund Group					68176
3G40 038614 Substance Abuse Block	\$	69,000,000	\$	69,000,000	68177
Grant					
3H80 038609 Demonstration Grants	\$	8,675,580	\$	8,675,580	68178
3J80 038610 Medicaid	\$	69,200,000	\$	0	68179
3N80 038611 Administrative	\$	300,000	\$	300,000	68180
Reimbursement					
TOTAL FED Federal Special Revenue					68181
Fund Group	\$	147,175,580	\$	77,975,580	68182
State Special Revenue Fund Group					68183
4750 038621 Statewide Treatment	\$	16,000,000	\$	14,000,000	68184
and Prevention				<u>15,000,000</u>	
<u>5JL0 038629 Problem Casino</u>	<u>\$</u>	<u>226,612</u>	<u>\$</u>	<u>5,446,364</u>	68185
<u>Gambling and</u>					
<u>Addictions Fund</u>					
5JW0 038615 Board Match	\$	3,000,000	\$	3,000,000	68186
Reimbursement					
6890 038604 Education and	\$	75,000	\$	75,000	68187
Conferences					
TOTAL SSR State Special Revenue					68188

Fund Group	\$	19,075,000	\$	17,075,000	68189
		<u>19,301,612</u>		<u>23,521,364</u>	
TOTAL ALL BUDGET FUND GROUPS	\$	202,638,942	\$	103,275,213	68190
		<u>202,865,554</u>		<u>109,721,577</u>	

Sec. 215.20. ALCOHOL AND DRUG ADDICTION MEDICAID MATCH 68192

(A) As used in this section, "community alcohol and drug addiction Medicaid services" means services provided under the component, or aspect of the component, of the Medicaid program that the Department of Alcohol and Drug Addiction Services administers pursuant to a contract entered into with the Department of Job and Family Services under section 5111.91 of the Revised Code. 68193-68199

(B) Subject to division (C) of this section, the foregoing appropriation item 038501, Medicaid Match, shall be used by the Department of Alcohol and Drug Addiction Services to make payments for community alcohol and drug addiction Medicaid services. 68200-68203

(C) For state fiscal year 2012, the Department shall allocate foregoing appropriation item 038501, Medicaid Match, and a portion of appropriation item 038621, Statewide Treatment and Prevention, to boards of alcohol, drug addiction, and mental health services in accordance with a distribution methodology the Department shall establish. Notwithstanding sections 5111.911 and 5111.913 of the Revised Code, the boards shall use the funds allocated to them under this section to pay claims for community alcohol and drug addiction Medicaid services provided during fiscal year 2012. The boards shall use all federal financial participation that the Department receives for claims paid for community alcohol and drug addiction Medicaid services provided during fiscal year 2012 as the first payment source to pay claims for community alcohol and drug addiction Medicaid services provided during fiscal year 2012. The boards are not required to use any funds other than the funds 68204-68218

allocated to them under this section and the federal financial 68219
 participation received for claims for community alcohol and drug 68220
 addiction Medicaid services provided during fiscal year 2012 to 68221
 pay for such claims. 68222

(D) The Department shall enter into an agreement with each 68223
 board regarding the issue of paying claims that are for community 68224
 alcohol and drug addiction Medicaid services provided before July 68225
 1, 2011, and submitted for payment on or after that date. Such 68226
 claims shall be paid in accordance with the agreements. A board 68227
 shall receive the federal financial participation received for 68228
 claims for community alcohol and drug addiction Medicaid services 68229
 that were provided before July 1, 2011, and paid by the board. 68230

STATEWIDE TREATMENT AND PREVENTION 68231

Of the foregoing appropriation item 038621, Statewide 68232
Treatment and Prevention, up to \$1,000,000 in fiscal year 2013 68233
shall be used to fund the pilot program for opioid- and 68234
alcohol-dependent offenders established under Section 737.70 of 68235
H.B. 487 of the 129th General Assembly. 68236

Sec. 223.10. AGO ATTORNEY GENERAL 68237

General Revenue Fund 68238

GRF 055321 Operating Expenses \$ 42,514,169 \$ 42,514,169 68239

GRF 055405 Law-Related Education \$ 100,000 \$ 100,000 68240

GRF 055411 County Sheriffs' Pay \$ 757,921 \$ 757,921 68241

Supplement

GRF 055415 County Prosecutors' \$ 831,499 \$ 831,499 68242

Pay Supplement

TOTAL GRF General Revenue Fund \$ 44,203,589 \$ 44,203,589 68243

General Services Fund Group 68244

1060 055612 General Reimbursement \$ 43,357,968 \$ 43,011,277 68245

1950 055660 Workers' Compensation \$ 8,415,504 \$ 8,415,504 68246

As Pending in the House Finance and Appropriations Committee (L# 2171-5)

		Section				
4180	055615	Charitable	\$	7,286,000	\$	7,286,000
		Foundations				68247
4200	055603	Attorney General	\$	1,871,674	\$	1,839,074
		Antitrust				68248
4210	055617	Police Officers'	\$	2,124,942	\$	2,088,805
		Training Academy Fee				68249
4Z20	055609	BCI Asset Forfeiture	\$	1,529,685	\$	1,521,731
		and Cost				68250
		Reimbursement				
5900	055633	Peace Officer Private	\$	98,370	\$	98,370
		Security Fund				68251
5A90	055618	Telemarketing Fraud	\$	7,500	\$	7,500
		Enforcement				68252
5L50	055619	Law Enforcement	\$	300,222	\$	0
		Assistance Program				68253
<u>5LR0</u>	<u>055655</u>	<u>Peace Officer</u>	<u>\$</u>	<u>192,620</u>	<u>\$</u>	<u>4,629,409</u>
		<u>Training - Casino</u>				68254
6310	055637	Consumer Protection	\$	3,799,115	\$	3,718,973
		Enforcement				68255
TOTAL	GSF	General Services Fund				68256
Group			\$	68,790,980	\$	67,987,234
				<u>68,983,600</u>		<u>72,616,643</u>
		Federal Special Revenue Fund Group				68258
3060	055620	Medicaid Fraud	\$	4,211,235	\$	4,122,399
		Control				68259
3810	055611	Civil Rights Legal	\$	402,540	\$	402,540
		Service				68260
3830	055634	Crime Victims	\$	13,000,000	\$	13,000,000
		Assistance				68261
3E50	055638	Attorney General	\$	1,223,606	\$	1,222,172
		Pass-Through Funds				68262
3R60	055613	Attorney General	\$	3,823,251	\$	3,673,251
						68263

Federal Funds				
TOTAL FED Federal Special Revenue				68264
Fund Group	\$	22,660,632	\$ 22,420,362	68265
State Special Revenue Fund Group				68266
4020 055616 Victims of Crime	\$	26,000,000	\$ 26,000,000	68267
4170 055621 Domestic Violence	\$	25,000	\$ 25,000	68268
Shelter				
4190 055623 Claims Section	\$	44,197,843	\$ 41,953,025	68269
4L60 055606 DARE Programs	\$	4,477,962	\$ 4,477,962	68270
4Y70 055608 Title Defect Recision	\$	600,000	\$ 600,000	68271
6590 055641 Solid and Hazardous	\$	662,227	\$ 651,049	68272
Waste Background				
Investigations				
TOTAL SSR State Special Revenue				68273
Fund Group	\$	75,963,032	\$ 73,707,036	68274
				68275
				68276
Account				
R005 055632 Antitrust Settlements	\$	1,000	\$ 1,000	68277
R018 055630 Consumer Frauds	\$	750,000	\$ 750,000	68278
R042 055601 Organized Crime	\$	25,025	\$ 25,025	68279
Commission				
Distributions				
R054 055650 Collection Outside	\$	4,500,000	\$ 4,500,000	68280
Counsel Payments				
TOTAL 090 Holding Account				68281
Redistribution Fund Group	\$	6,276,025	\$ 6,276,025	68282
Tobacco Master Settlement Agreement Fund Group				68283
J087 055635 Law Enforcement	\$	2,300,000	\$ 0	68284
Technology, Training, and Facility Enhancements				

U087 055402	Tobacco Settlement	\$	2,527,992	\$	2,514,690	68285
	Oversight,					
	Administration, and					
	Enforcement					
TOTAL TSF Tobacco Master Settlement Agreement Fund Group		\$	4,827,992	\$	2,514,690	68286
TOTAL ALL BUDGET FUND GROUPS		\$	222,722,250	\$	217,108,936	68287
			<u>222,914,870</u>		<u>221,738,345</u>	

COUNTY SHERIFFS' PAY SUPPLEMENT 68288

The foregoing appropriation item 055411, County Sheriffs' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of county sheriffs as required by section 325.06 of the Revised Code. 68289
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At the request of the Attorney General, the Director of Budget and Management may transfer appropriation from appropriation item 055321, Operating Expenses, to appropriation item 055411, County Sheriffs' Pay Supplement. Any appropriation so transferred shall be used to supplement the annual compensation of county sheriffs as required by section 325.06 of the Revised Code. 68293
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COUNTY PROSECUTORS' PAY SUPPLEMENT 68299

The foregoing appropriation item 055415, County Prosecutors' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of certain county prosecutors as required by section 325.111 of the Revised Code. 68300
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At the request of the Attorney General, the Director of Budget and Management may transfer appropriation from appropriation item 055321, Operating Expenses, to appropriation item 055415, County Prosecutors' Pay Supplement. Any appropriation so transferred shall be used to supplement the annual compensation of county prosecutors as required by section 325.111 of the Revised Code. 68304
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GENERAL REIMBURSEMENT FUND 68311

Notwithstanding any other provision of law to the contrary, 68312
on July 1, 2011, or as soon as possible thereafter, the Director 68313
of Budget and Management shall transfer \$160,000 cash from the 68314
General Revenue Fund to the General Reimbursement Fund (Fund 1060) 68315
used by the Office of the Attorney General. 68316

WORKERS' COMPENSATION SECTION 68317

The Workers' Compensation Fund (Fund 1950) is entitled to 68318
receive payments from the Bureau of Workers' Compensation and the 68319
Ohio Industrial Commission at the beginning of each quarter of 68320
each fiscal year to fund legal services to be provided to the 68321
Bureau of Workers' Compensation and the Ohio Industrial Commission 68322
during the ensuing quarter. The advance payment shall be subject 68323
to adjustment. 68324

In addition, the Bureau of Workers' Compensation shall 68325
transfer payments at the beginning of each quarter for the support 68326
of the Workers' Compensation Fraud Unit. 68327

All amounts shall be mutually agreed upon by the Attorney 68328
General, the Bureau of Workers' Compensation, and the Ohio 68329
Industrial Commission. 68330

ATTORNEY GENERAL PASS-THROUGH FUNDS 68331

The foregoing appropriation item 055638, Attorney General 68332
Pass-Through Funds, shall be used to receive federal grant funds 68333
provided to the Attorney General by other state agencies, 68334
including, but not limited to, the Department of Youth Services 68335
and the Department of Public Safety. 68336

GENERAL HOLDING ACCOUNT 68337

The foregoing appropriation item 055631, General Holding 68338
Account, shall be used to distribute moneys under the terms of 68339
relevant court orders or other settlements received in a variety 68340

of cases involving the Office of the Attorney General. If it is 68341
determined that additional amounts are necessary for this purpose, 68342
the amounts are hereby appropriated. 68343

ANTITRUST SETTLEMENTS 68344

The foregoing appropriation item 055632, Antitrust 68345
Settlements, shall be used to distribute moneys under the terms of 68346
relevant court orders or other out of court settlements in 68347
antitrust cases or antitrust matters involving the Office of the 68348
Attorney General. If it is determined that additional amounts are 68349
necessary for this purpose, the amounts are hereby appropriated. 68350

CONSUMER FRAUDS 68351

The foregoing appropriation item 055630, Consumer Frauds, 68352
shall be used for distribution of moneys from court-ordered 68353
judgments against sellers in actions brought by the Office of 68354
Attorney General under sections 1334.08 and 4549.48 and division 68355
(B) of section 1345.07 of the Revised Code. These moneys shall be 68356
used to provide restitution to consumers victimized by the fraud 68357
that generated the court-ordered judgments. If it is determined 68358
that additional amounts are necessary for this purpose, the 68359
amounts are hereby appropriated. 68360

ORGANIZED CRIME COMMISSION DISTRIBUTIONS 68361

The foregoing appropriation item 055601, Organized Crime 68362
Commission Distributions, shall be used by the Organized Crime 68363
Investigations Commission, as provided by section 177.011 of the 68364
Revised Code, to reimburse political subdivisions for the expenses 68365
the political subdivisions incur when their law enforcement 68366
officers participate in an organized crime task force. If it is 68367
determined that additional amounts are necessary for this purpose, 68368
the amounts are hereby appropriated. 68369

COLLECTION OUTSIDE COUNSEL PAYMENTS 68370

The foregoing appropriation item 055650, Collection Outside
 Counsel Payments, shall be used for the purpose of paying
 contingency counsel fees for cases where debtors mistakenly paid
 the client agencies instead of the Attorney General's Revenue
 Recovery/Collections Enforcement Section. If it is determined that
 additional amounts are necessary for this purpose, the amounts are
 hereby appropriated.

Sec. 229.10. OBM OFFICE OF BUDGET AND MANAGEMENT				68378
General Revenue Fund				68379
GRF	042321	Budget Development	\$ 2,362,025 \$	2,378,166 68380
		and Implementation		<u>2,353,166</u>
GRF	042409	Commission Closures	\$ 50,000 \$	50,000 68381
GRF	042416	Office of Health	\$ 306,285 \$	499,252 68382
		Transformation		
GRF	042423	Liquor Enterprise	\$ 500,000 \$	0 68383
		Transaction		
TOTAL GRF	General Revenue Fund		\$ 3,218,310 \$	2,428,166 68384
				<u>2,902,418</u>
General Services Fund Group				68385
1050	042603	State Accounting and	\$ 21,917,230 \$	22,006,331 68386
		Budgeting	<u>21,158,069</u>	<u>22,262,185</u>
5N40	042602	OAKS Project	\$ 1,358,000 \$	1,309,500 68387
		Implementation		<u>1,296,000</u>
5Z80	042608	Office of Health	\$ 57,752 \$	0 68388
		Transformation		
		Administration		
TOTAL GSF	General Services Fund		\$ 23,332,982 \$	23,315,831 68389
	Group		<u>22,573,821</u>	<u>23,558,185</u>
Federal Special Revenue Fund Group				68390
3CM0	042606	Office of Health	\$ 384,037 \$	145,500 68391
		Transformation -		<u>438,723</u>

Federal

TOTAL FED Federal Special Revenue	\$	384,037	\$	145,500	68392
Fund Group				<u>438,723</u>	
Agency Fund Group					68393
5EH0 042604 Forgery Recovery	\$	50,000	\$	50,000 49,000	68394
TOTAL AGY Agency Fund Group	\$	50,000	\$	50,000 49,000	68395
TOTAL ALL BUDGET FUND GROUPS	\$	26,985,329	\$	25,939,497	68396
		<u>26,226,168</u>		<u>26,948,326</u>	

COMMISSION CLOSURES 68397

The foregoing appropriation item 042409, Commission Closures, 68398
 may be used to pay obligations associated with the closure of the 68399
 Commission on Dispute Resolution and Conflict Management, the 68400
 School Employees Health Care Board, the Legal Rights Service, and 68401
 the Workers' Compensation Council. Notwithstanding any provision 68402
 of law to the contrary, this appropriation item may also be used 68403
 to pay final payroll expenses occurring after the closure of the 68404
 Commission on Dispute Resolution and Conflict Management, the 68405
 School Employees Health Care Board, the Legal Rights Service, and 68406
 the Workers' Compensation Council in the event that appropriations 68407
 or cash in the closing agency are insufficient to do so. 68408

The Director of Budget and Management may request Controlling 68409
 Board approval for funds to be transferred to appropriation item 68410
 042409, Commission Closures, from appropriation item 911614, CB 68411
 Emergency Purposes, for anticipated expenses associated with 68412
 agency closures. 68413

LIQUOR ENTERPRISE TRANSACTION 68414

The foregoing appropriation item 042423, Liquor Enterprise 68415
 Transaction, shall be used by the Director of Budget and 68416
 Management, without need for any other approval, to retain or 68417
 contract for the services of commercial appraisers, underwriters, 68418
 investment bankers, and financial advisers, as are necessary in 68419

the Director's judgment to commence negotiation of the transfer 68420
agreement referred to in sections 4313.01 and 4313.02 of the 68421
Revised Code, as enacted by ~~this act~~ Am. Sub. H.B. 153 of the 68422
129th General Assembly. Any amounts expended from appropriation 68423
item 042423 shall be reimbursed from the proceeds of the 68424
enterprise acquisition project transaction authorized in those 68425
sections. 68426

The Director of Budget and Management, in consultation with 68427
the Director of Commerce, may negotiate an initial agreement with 68428
JobsOhio, which shall be executed by the Directors of Budget and 68429
Management and Commerce upon its completion. 68430

AUDIT COSTS AND DUES 68431

All centralized audit costs associated with either Single 68432
Audit Schedules or financial statements prepared in conformance 68433
with generally accepted accounting principles for the state shall 68434
be paid from the foregoing appropriation item 042603, State 68435
Accounting and Budgeting. 68436

Costs associated with the audit of the Auditor of State and 68437
national association dues shall be paid from the foregoing 68438
appropriation item 042321, Budget Development and Implementation. 68439

SHARED SERVICES CENTER 68440

The Director of Budget and Management shall use the OAKS 68441
Project Implementation Fund (Fund 5N40) and the Accounting and 68442
Budgeting Fund (Fund 1050) to support a Shared Services Center 68443
within the Office of Budget and Management for the purpose of 68444
consolidating statewide business functions and common 68445
transactional processes. 68446

The Director of Budget and Management shall include the 68447
recovery of costs to operate the Shared Services Center in the 68448
accounting and budgeting services payroll rate and through a 68449
direct charge using intrastate transfer vouchers to agencies for 68450

services rendered. The Director of Budget and Management shall 68451
determine the cost recovery methodology. Such cost recovery 68452
revenues shall be deposited to the credit of Fund 1050. 68453

INTERNAL CONTROL AND AUDIT OVERSIGHT 68454

The Director of Budget and Management shall include the 68455
recovery of costs to operate the Internal Control and Audit 68456
Oversight Program in the accounting and budgeting services payroll 68457
rate and through a direct charge using intrastate transfer 68458
vouchers to agencies reviewed by the program. The Director of 68459
Budget and Management, with advice from the Internal Audit 68460
Advisory Council, shall determine the cost recovery methodology. 68461
Such cost recovery revenues shall be deposited to the credit of 68462
the Accounting and Budgeting Fund (Fund 1050). 68463

FORGERY RECOVERY 68464

The foregoing appropriation item 042604, Forgery Recovery, 68465
shall be used to reissue warrants that have been certified as 68466
forgeries by the rightful recipient as determined by the Bureau of 68467
Criminal Identification and Investigation and the Treasurer of 68468
State. Upon receipt of funds to cover the reissuance of the 68469
warrant, the Director of Budget and Management shall reissue a 68470
state warrant of the same amount. 68471

GRF TRANSFER TO THE OAKS PROJECT IMPLEMENTATION FUND 68472

On July 1 of each fiscal year, or as soon as possible 68473
thereafter, the Director of Budget and Management shall transfer 68474
an amount not to exceed \$1,100,000 in cash from the General 68475
Revenue Fund to the OAKS Project Implementation Fund (Fund 5N40). 68476

Sec. 243.10. COM DEPARTMENT OF COMMERCE 68477

General Services Fund Group 68478

1630 800620 Division of \$ 6,200,000 \$ 6,200,000 68479
Administration

As Pending in the House Finance and Appropriations Committee (L# 2171-5)

1630	800637	Information Technology	\$	5,999,892	\$	6,011,977	68480
5430	800602	Unclaimed	\$	7,836,107	\$	7,841,473	68481
		Funds-Operating					
5430	800625	Unclaimed Funds-Claims	\$	69,700,000	\$	69,800,000	68482
						<u>68,000,000</u>	
5F10	800635	Small Government Fire	\$	300,000	\$	300,000	68483
		Departments					
TOTAL GSF General Services Fund							68484
Group			\$	90,035,999	\$	90,153,450	68485
						<u>88,353,450</u>	
Federal Special Revenue Fund Group							68486
3480	800622	Underground Storage	\$	1,129,518	\$	1,129,518	68487
		Tanks					
3480	800624	Leaking Underground	\$	1,556,211	\$	1,556,211	68488
		Storage Tanks					
TOTAL FED Federal Special Revenue							68489
Fund Group			\$	2,685,729	\$	2,685,729	68490
State Special Revenue Fund Group							68491
4B20	800631	Real Estate Appraisal	\$	35,000	\$	35,000	68492
		Recovery					
4H90	800608	Cemeteries	\$	268,067	\$	268,293	68493
4X20	800619	Financial Institutions	\$	2,186,271	\$	1,990,693	68494
						<u>1,970,786</u>	
5440	800612	Banks	\$	7,242,364	\$	6,942,336	68495
						<u>6,872,913</u>	
5450	800613	Savings Institutions	\$	2,257,220	\$	2,259,536	68496
5460	800610	Fire Marshal	\$	15,400,000	\$	15,501,562	68497
						<u>15,484,574</u>	
5460	800639	Fire Department Grants	\$	1,698,802	\$	1,698,802	68498
5470	800603	Real Estate	\$	125,000	\$	125,000	68499
		Education/Research				<u>80,655</u>	
5480	800611	Real Estate Recovery	\$	25,000	\$	25,000	68500

As Pending in the House Finance and Appropriations Committee (L# 2171-5)

5490 800614	Real Estate	\$	3,413,708	\$	3,332,308	68501
5500 800617	Securities	\$	4,312,434	\$	4,314,613	68502
					<u>4,271,467</u>	
5520 800604	Credit Union	\$	3,450,390	\$	3,450,390	68503
					<u>3,415,886</u>	
5530 800607	Consumer Finance	\$	3,613,016	\$	3,516,861	68504
					<u>3,481,692</u>	
5560 800615	Industrial Compliance	\$	27,639,372	\$	27,664,695	68505
					<u>27,388,048</u>	
5FW0 800616	Financial Literacy Education	\$	240,000	\$	240,000	68506
					<u>200,000</u>	
5GK0 800609	Securities Investor Education/Enforcement	\$	1,135,000	\$	485,000	68507
					<u>480,150</u>	
5HV0 800641	Cigarette Enforcement	\$	120,000	\$	120,000	68508
					<u>118,800</u>	
<u>5LN0 800645</u>	<u>Liquor Operating Services</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>5,500,000</u>	68509
<u>5LP0 800646</u>	<u>Liquor Regulatory Operating Expense</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>8,500,000</u>	68510
5X60 800623	Video Service	\$	340,299	\$	340,630	68511
					<u>337,224</u>	
6530 800629	UST Registration/Permit Fee	\$	1,854,675	\$	1,509,653	68512
					<u>1,494,556</u>	
6A40 800630	Real Estate Appraiser-Operating	\$	699,565	\$	648,890	68513
TOTAL SSR State Special Revenue						68514
Fund Group		\$	76,056,183	\$	74,469,262	68515
					<u>87,864,580</u>	
Liquor Control Fund Group						68516
7043 800601	Merchandising	\$	472,209,274	\$	0	68517
7043 800627	Liquor Control Operating	\$	13,398,274	\$	10,110,479	68518
					<u>1,509,374</u>	
7043 800633	Development Assistance	\$	51,973,200	\$	0	68519

	Debt Service				
7043 800636	Revitalization Debt	\$	21,129,800	\$	0 68520
	Service				
	TOTAL LCF Liquor Control				68521
	Fund Group	\$	558,710,548	\$	10,110,479 68522
					<u>1,509,374</u>
	TOTAL ALL BUDGET FUND GROUPS	\$	727,488,459	\$	177,418,920 68523
					<u>180,413,133</u>

SMALL GOVERNMENT FIRE DEPARTMENTS 68524

Notwithstanding section 3737.17 of the Revised Code, the 68525
foregoing appropriation item 800635, Small Government Fire 68526
Departments, may be used to provide loans to private fire 68527
departments. 68528

UNCLAIMED FUNDS PAYMENTS 68529

The foregoing appropriation item 800625, Unclaimed 68530
Funds-Claims, shall be used to pay claims under section 169.08 of 68531
the Revised Code. If it is determined that additional amounts are 68532
necessary, the amounts are appropriated. 68533

UNCLAIMED FUNDS TRANSFERS 68534

Notwithstanding division (A) of section 169.05 of the Revised 68535
Code, during the FY 2012-FY 2013 biennium, the Director of Budget 68536
and Management shall request the Director of Commerce to transfer 68537
to the General Revenue Fund up to \$215,000,000 of unclaimed funds 68538
that have been reported by holders of unclaimed funds under 68539
section 169.05 of the Revised Code, irrespective of the allocation 68540
of the unclaimed funds under that section. The Director of 68541
Commerce shall transfer the funds at the times requested by the 68542
Director of Budget and Management. 68543

FIRE DEPARTMENT GRANTS 68544

Of the foregoing appropriation item 800639, Fire Department 68545
Grants, up to \$1,647,140 in each fiscal year shall be used to make 68546

annual grants to the following eligible recipients: volunteer fire departments, fire departments that serve one or more small municipalities or small townships, joint fire districts comprised of fire departments that primarily serve small municipalities or small townships, local units of government responsible for such fire departments, and local units of government responsible for the provision of fire protection services for small municipalities or small townships. For the purposes of these grants, a private fire company, as that phrase is defined in section 9.60 of the Revised Code, that is providing fire protection services under a contract to a political subdivision of the state, is an additional eligible recipient for a training grant.

Eligible recipients that consist of small municipalities or small townships that all intend to contract with the same fire department or private fire company for fire protection services may jointly apply and be considered for a grant. If a joint applicant is awarded a grant, the State Fire Marshal shall, if feasible, proportionately award the grant and any equipment purchased with grant funds to each of the joint applicants based upon each applicant's contribution to and demonstrated need for fire protection services.

If the grant awarded to joint applicants is an equipment grant and the equipment to be purchased cannot be readily distributed or possessed by multiple recipients, each of the joint applicants shall be awarded by the State Fire Marshal an ownership interest in the equipment so purchased in proportion to each applicant's contribution to and demonstrated need for fire protection services. The joint applicants shall then mutually agree on how the equipment is to be maintained, operated, stored, or disposed of. If, for any reason, the joint applicants cannot agree as to how jointly owned equipment is to be maintained, operated, stored, or disposed of or any of the joint applicants no

longer maintain a contract with the same fire protection service 68579
provider as the other applicants, then the joint applicants shall, 68580
with the assistance of the State Fire Marshal, mutually agree as 68581
to how the jointly owned equipment is to be maintained, operated, 68582
stored, disposed of, or owned. If the joint applicants cannot 68583
agree how the grant equipment is to be maintained, operated, 68584
stored, disposed of, or owned, the State Fire Marshal may, in its 68585
discretion, require all of the equipment acquired by the joint 68586
applicants with grant funds to be returned to the State Fire 68587
Marshal. The State Fire Marshal may then award the returned 68588
equipment to any eligible recipients. 68589

The grants shall be used by recipients to purchase 68590
firefighting or rescue equipment or gear or similar items, to 68591
provide full or partial reimbursement for the documented costs of 68592
firefighter training, or, at the discretion of the State Fire 68593
Marshal, to cover fire department costs for providing fire 68594
protection services in that grant recipient's jurisdiction. 68595

Grant awards for firefighting or rescue equipment or gear or 68596
for fire department costs of providing fire protection services 68597
shall be up to \$15,000 per fiscal year, or up to \$25,000 per 68598
fiscal year if an eligible entity serves a jurisdiction in which 68599
the Governor declared a natural disaster during the preceding or 68600
current fiscal year in which the grant was awarded. In addition to 68601
any grant funds awarded for rescue equipment or gear, or for fire 68602
department costs associated with the provision of fire protection 68603
services, an eligible entity may receive a grant for up to \$15,000 68604
per fiscal year for full or partial reimbursement of the 68605
documented costs of firefighter training. For each fiscal year, 68606
the State Fire Marshal shall determine the total amounts to be 68607
allocated for each eligible purpose. 68608

The grant program shall be administered by the State Fire 68609
Marshal in accordance with rules the State Fire Marshal adopts as 68610

part of the state fire code adopted pursuant to section 3737.82 of 68611
the Revised Code that are necessary for the administration and 68612
operation of the grant program. The rules may further define the 68613
entities eligible to receive grants and establish criteria for the 68614
awarding and expenditure of grant funds, including methods the 68615
State Fire Marshal may use to verify the proper use of grant funds 68616
or to obtain reimbursement for or the return of equipment for 68617
improperly used grant funds. Any amounts in appropriation item 68618
800639, Fire Department Grants, in excess of the amount allocated 68619
for these grants may be used for the administration of the grant 68620
program. 68621

CASH TRANSFERS TO THE DIVISION OF SECURITIES INVESTOR 68622
EDUCATION AND ENFORCEMENT EXPENSE FUND 68623

The Director of Budget and Management, upon the request of 68624
the Director of Commerce, shall transfer up to \$485,000 in cash in 68625
each fiscal year from the Division of Securities Fund (Fund 5500) 68626
to the Division of Securities Investor Education and Enforcement 68627
Expense Fund (Fund 5GK0) created in section 1707.37 of the Revised 68628
Code. 68629

CASH TRANSFER TO VIDEO SERVICE AUTHORIZATION FUND 68630

The Director of Budget and Management, upon the request of 68631
the Director of Commerce, shall transfer up to \$340,000 in cash in 68632
each fiscal year from the Division of Administration Fund (Fund 68633
1630) to the Video Service Authorization Fund (Fund 5X60). 68634

INCREASED APPROPRIATION - MERCHANDISING 68635

The foregoing appropriation item 800601, Merchandising, shall 68636
be used under section 4301.12 of the Revised Code. If it is 68637
determined that additional expenditures are necessary, the amounts 68638
are hereby appropriated. 68639

DEVELOPMENT ASSISTANCE DEBT SERVICE 68640

The foregoing appropriation item 800633, Development Assistance Debt Service, shall be used to pay debt service and related financing costs at the times they are required to be made during the period from July 1, 2011, to June 30, 2012, for bond service charges on obligations issued under Chapter 166. of the Revised Code. If it is determined that additional appropriations are necessary for this purpose, such amounts are appropriated, subject to the limitations set forth in section 166.11 of the Revised Code. An appropriation for this purpose is not required, but is made in this form and in ~~this act~~ Am. Sub. H.B. 153 of the 129th General Assembly for record purposes only.

REVITALIZATION DEBT SERVICE

The foregoing appropriation item 800636, Revitalization Debt Service, shall be used to pay debt service and related financing costs at the times they are required to be made pursuant to sections 151.01 and 151.40 of the Revised Code during the period from July 1, 2011, to June 30, 2012. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated. The General Assembly acknowledges the priority of the pledge of a portion of receipts from that source to obligations issued and to be issued under Chapter 166. of the Revised Code.

LIQUOR CONTROL FUND TRANSFER

On January 1, 2012, or as soon as possible thereafter, the Director of Budget and Management may transfer up to \$10,600,000 in cash from the General Revenue Fund to the Liquor Control Fund (Fund 7043) for the liquor permitting and compliance functions of the Division of Liquor Control in the Department of Commerce and for the operations of the Liquor Control Commission and the Department of Public Safety pursuant to Chapter 4301. of the Revised Code.

On July 1, 2012, or as soon as possible thereafter, the 68672
Director of Budget and Management may transfer up to \$21,800,000 68673
in cash from the General Revenue Fund to the Liquor Control Fund 68674
(Fund 7043) for the liquor permitting and compliance functions of 68675
the Division of Liquor Control in the Department of Commerce and 68676
for the operations of the Liquor Control Commission and the 68677
Department of Public Safety pursuant to Chapter 4301. of the 68678
Revised Code. 68679

On July 1, 2012, or as soon as possible thereafter, the 68680
Director of Budget and Management shall transfer \$500,000 in cash 68681
from the Liquor Control Fund (Fund 7043) to the State Liquor 68682
Regulatory Fund (Fund 5LP0) created in section 4301.30 of the 68683
Revised Code. 68684

ADMINISTRATIVE ASSESSMENTS 68685

Notwithstanding any other provision of law to the contrary, 68686
the Division of Administration Fund (Fund 1630) is entitled to 68687
receive assessments from all operating funds of the Department in 68688
accordance with procedures prescribed by the Director of Commerce 68689
and approved by the Director of Budget and Management. 68690

Sec. 261.10.40. TRAVEL AND TOURISM 68691

The foregoing appropriation item 195407, Travel and Tourism, 68692
shall be used for marketing the state of Ohio as a tourism 68693
destination and to support administrative expenses and contracts 68694
necessary to market Ohio. 68695

~~STRATEGIC BUSINESS INVESTMENT DIVISION AND REGIONAL OFFICES~~ 68696
DEVELOPMENT SERVICES 68697

The foregoing appropriation item 195415, ~~Strategic Business~~ 68698
~~Investment Division and Regional Offices~~ Development Services, 68699
shall be used for the operating expenses of the ~~Strategic Business~~ 68700
~~Investment Services~~ Division and the regional economic development 68701

offices and for grants for cooperative economic development 68702
ventures. 68703

Sec. 261.10.70. CLEAN OHIO IMPLEMENTATION 68704

The foregoing appropriation item 195426, Clean Ohio 68705
Implementation, shall be used to fund the costs of administering 68706
the Clean Ohio Revitalization program and other urban 68707
revitalization programs that may be implemented by the ~~Department~~ 68708
~~of Development Services Agency.~~ 68709

CDBG OPERATING MATCH 68710

The foregoing appropriation item 195497, CDBG Operating 68711
Match, shall be used as matching funds for grants from the United 68712
States Department of Housing and Urban Development pursuant to the 68713
Housing and Community Development Act of 1974 and regulations and 68714
policy guidelines for the programs pursuant thereto. 68715

TECHNOLOGY PROGRAMS AND GRANTS 68716

The foregoing appropriation item 195532, Technology Programs 68717
and Grants, shall be used for the same purposes as funding 68718
previously appropriated for appropriation items 195401, Thomas 68719
Edison Program, and 195422, Technology Action. Of the foregoing 68720
appropriation item 195532, Technology Programs and Grants, up to 68721
\$547,341 in fiscal year 2013 shall be used for operating expenses 68722
incurred in administering the Ohio Third Frontier pursuant to 68723
sections 184.10 to 184.20 of the Revised Code; and up to 68724
\$13,000,000 in fiscal year 2013 shall be used for the Thomas 68725
Edison Program pursuant to sections 122.28 to 122.38 of the 68726
Revised Code, of which not more than ten per cent shall be used 68727
for operating expenses incurred in administering the program. 68728

BUSINESS ASSISTANCE 68729

The foregoing appropriation item 195533, Business Assistance, 68730
shall be used as matching funds for grants from the United States 68731

Small Business Administration and other federal agencies, pursuant to Public Law No. 96-302 as amended by Public Law No. 98-395, and regulations and policy guidelines for the programs pursuant thereto. This appropriation item also may be used to provide grants to local organizations to support economic development activities that promote minority business development, small business development, entrepreneurship, and exports of Ohio's goods and services. 68732
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APPALACHIA ASSISTANCE 68740

The foregoing appropriation item 195535, Appalachia Assistance, may be used for the administrative costs of planning and liaison activities for the Governor's Office of Appalachia, to provide financial assistance to projects in Ohio's Appalachian counties, to pay dues for the Appalachian Regional Commission, and to match federal funds from the Appalachian Regional Commission. 68741
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Of the foregoing appropriation item 195535, Appalachia Assistance, up to \$440,000 in fiscal year 2013 shall be used to support four local development districts. Of that amount, up to \$135,000 shall be allocated to the Ohio Valley Regional Development Commission, up to \$135,000 shall be allocated to the Ohio Mid-Eastern Government Association, up to \$135,000 shall be allocated to the Buckeye Hills-Hocking Valley Regional Development District, and up to \$35,000 shall be allocated to the Eastgate Regional Council of Governments. Local development districts receiving funding under this section shall use the funds for the implementation and administration of programs and duties under section 107.21 of the Revised Code. 68747
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Sec. 261.20.10. ECONOMIC DEVELOPMENT PROJECTS 68759

The foregoing appropriation item 195528, Economic Development Projects, may be used for the purposes of Chapter 122. of the Revised Code. This appropriation item is made in anticipation of 68760
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the evaluation of all powers, functions, and duties of the 68763
Department of Development by the Director of Development, as 68764
prescribed in Section 187.05 of the Revised Code. It is the intent 68765
of the General Assembly that the appropriations in the 68766
appropriation item be reallocated upon completion of the 68767
evaluation. 68768

The foregoing appropriation item 195530, Economic Gardening 68769
Pilot Program, shall be used for the Economic Gardening Technical 68770
Assistance Pilot Program. 68771

Sec. 261.20.40. SUPPORTIVE DEVELOPMENT SERVICES OPERATIONS 68772

The Director of Development Services may assess ~~divisions~~ 68773
offices of the ~~department~~ agency for the cost of central service 68774
operations. An assessment shall contain the characteristics of 68775
administrative ease and uniform application. A division's payments 68776
shall be credited to the Supportive Services Fund (Fund 1350) 68777
using an intrastate transfer voucher. 68778

~~ECONOMIC DEVELOPMENT CONTINGENCY~~ 68779

~~The foregoing appropriation item 195677, Economic Development 68780
Contingency, may be used to award funds directly to either (1) 68781
business entities considering Ohio for expansion or new site 68782
location opportunities or (2) political subdivisions to assist 68783
with necessary costs involved in attracting a business entity. In 68784
addition, the Director of Development may award funds for 68785
alternative purposes when appropriate to satisfy an economic 68786
development opportunity or need deemed extraordinary in nature by 68787
the Director.~~ 68788

LEGACY PROJECTS 68789

The foregoing appropriation item 195633, Legacy Projects, 68790
shall be used to support existing grant commitments to companies 68791
incurred prior to fiscal year 2013. A portion of the appropriation 68792

item may also be used to support administrative expenses and other 68793
costs associated with these projects. 68794

~~DIRECT COST RECOVERY~~ DEVELOPMENT SERVICES REIMBURSABLE 68795
EXPENDITURES 68796

The foregoing appropriation item 195636, ~~Direct Cost Recovery~~ 68797
Development Services Reimbursable Expenditures, shall be used for 68798
reimbursable costs incurred by the agency. Revenues to the General 68799
Reimbursement Fund (Fund 6850) shall consist of moneys charged for 68800
administrative costs that are not central service costs. 68801

Sec. 261.20.50. HEAP WEATHERIZATION 68802

Up to fifteen per cent of the federal funds deposited to the 68803
credit of the Home Energy Assistance Block Grant Fund (Fund 3K90) 68804
may be expended from appropriation item 195614, HEAP 68805
Weatherization, to provide home weatherization services in the 68806
state as determined by the Director of Development Services. Any 68807
transfers or increases in appropriation for the foregoing 68808
appropriation items 195614, HEAP Weatherization, or 195611, Home 68809
Energy Assistance Block Grant, shall be subject to approval by the 68810
Controlling Board. 68811

Sec. 261.20.60. BUSINESS ASSISTANCE PROGRAMS 68812

The foregoing appropriation item 195649, Business Assistance 68813
Programs, shall be used for administrative expenses associated 68814
with the operation of tax credit programs, loan servicing, the 68815
Ohio Film Office, and the Office of Strategic Business 68816
Investments, and for payments to the JobsOhio corporation 68817
established in Chapter 187. of the Revised Code for services 68818
provided for the administration of the 166 Direct Loan Program, 68819
Ohio Enterprise Bond Fund, Research and Development Loan Program, 68820
and Innovation Ohio Loan Program. 68821

STATE SPECIAL PROJECTS 68822

The State Special Projects Fund (Fund 4F20), may be used for 68823
the deposit of private-sector funds from utility companies and for 68824
the deposit of other miscellaneous state funds. State moneys so 68825
deposited ~~shall~~ may also be used to match federal housing grants 68826
for the homeless ~~and to market economic development opportunities~~ 68827
~~in the state~~. Private-sector moneys shall be deposited for use in 68828
appropriation item 195699, Utility ~~Provided Funds~~ Community 68829
Assistance, and shall be used to (1) pay the expenses of verifying 68830
the income-eligibility of HEAP applicants, (2) leverage additional 68831
federal funds, (3) fund special projects to assist ~~homeless~~ 68832
~~individuals~~ income-eligible veterans and families with services 68833
and energy assistance programs, (4) fund special projects to 68834
assist with the energy efficiency of households eligible to 68835
participate in the Percentage of Income Payment Plan, and (5) 68836
assist with training programs for agencies that administer 68837
low-income customer assistance programs. 68838

Sec. 261.20.80. MINORITY BUSINESS ENTERPRISE LOAN 68839

All repayments from the Minority Development Financing 68840
Advisory Board Loan Program and the Ohio Mini-Loan Guarantee 68841
Program shall be deposited in the State Treasury to the credit of 68842
the Minority Business Enterprise Loan Fund (Fund 4W10). Operating 68843
costs of administering the Minority Business Enterprise Loan Fund 68844
may be paid from the Minority Business Enterprise Loan Fund (Fund 68845
4W10). 68846

MINORITY BUSINESS BONDING FUND 68847

Notwithstanding Chapters 122., 169., and 175. of the Revised 68848
Code, the Director of Development Services may, upon the 68849
recommendation of the Minority Development Financing Advisory 68850
Board, pledge up to \$10,000,000 in the fiscal year 2012-fiscal 68851
year 2013 biennium of unclaimed funds administered by the Director 68852
of Commerce and allocated to the Minority Business Bonding Program 68853

under section 169.05 of the Revised Code. The transfer of any cash 68854
by the Director of Budget and Management from the ~~Department of~~ 68855
~~Commerce's~~ Unclaimed Funds Fund (Fund 5430) used by the Department 68856
of Commerce to the ~~Department of Development's~~ Minority Business 68857
Bonding Fund (Fund 4490) used by the Development Services Agency 68858
shall occur, if requested by the Director of Development Services, 68859
only if such funds are needed for payment of losses arising from 68860
the Minority Business Bonding Program, and only after proceeds of 68861
the initial transfer of \$2,700,000 by the Controlling Board to the 68862
Minority Business Bonding Program has been used for that purpose. 68863
Moneys transferred by the Director of Budget and Management from 68864
the Department of Commerce for this purpose may be moneys in 68865
custodial funds held by the Treasurer of State. If expenditures 68866
are required for payment of losses arising from the Minority 68867
Business Bonding Program, such expenditures shall be made from 68868
appropriation item 195623, Minority Business Bonding Contingency 68869
in the Minority Business Bonding Fund, and such amounts are hereby 68870
appropriated. 68871

Sec. 261.20.90. ~~OHIO~~ INCUMBENT WORKFORCE TRAINING VOUCHERS 68872

(A) On July 1, 2011, or as soon as possible thereafter, the 68873
Director of Budget and Management shall transfer up to \$20,000,000 68874
cash from the Economic Development Programs Fund (Fund 5JC0) used 68875
by the Board of Regents to the Ohio Incumbent Workforce Job 68876
Training Fund (Fund 5HR0) used by the ~~Department of~~ Development 68877
Services Agency. 68878

On July 1, 2012, or as soon as possible thereafter, the 68879
Director of Budget and Management shall transfer up to \$30,000,000 68880
cash from the Economic Development Programs Fund (Fund 5JC0) used 68881
by the Board of Regents to the Ohio Incumbent Workforce Job 68882
Training Fund (Fund 5HR0) used by the ~~Department of~~ Development 68883
Services Agency. 68884

(B) Of the foregoing appropriation item 195526, ~~Ohio~~ 68885
Incumbent Workforce Job Training Vouchers, up to \$20,000,000 in 68886
fiscal year 2012 and up to \$30,000,000 in fiscal year 2013 shall 68887
be used to support the Ohio Incumbent Workforce Training Voucher 68888
Program. The Director of Development Services and the Chief 68889
Investment Officer of JobsOhio may enter into an agreement to 68890
operate the program pursuant to the contract between the 68891
~~Department of Development Services Agency~~ and JobsOhio under 68892
section 187.04 of the Revised Code. The agreement may include a 68893
provision for granting, loaning, or transferring funds from 68894
appropriation item 195526, ~~Ohio~~ Incumbent Workforce ~~Job~~ Training 68895
Vouchers, to JobsOhio to provide training for incumbent workers. 68896

(C) Regardless of any agreement between the Director and the 68897
Chief Investment Officer under division (B) of this section, the 68898
Ohio Incumbent Workforce Training Voucher Program shall conform to 68899
guidelines for the operation of the program, including, but not 68900
limited to, the following: 68901

(1) A requirement that a training voucher under the program 68902
shall not exceed \$6,000 per worker per year; 68903

(2) A provision for an employer of an eligible employee to 68904
apply for a voucher on behalf of the eligible employee; 68905

(3) A provision for an eligible employee to apply directly 68906
for a training voucher with the pre-approval of the employee's 68907
employer; and 68908

(4) A requirement that an employee participating in the 68909
program, or the employee's employer, shall pay for not less than 68910
thirty-three per cent of the training costs under the program. 68911

DEFENSE DEVELOPMENT ASSISTANCE 68912

On July 1 of each fiscal year, or as soon as possible 68913
thereafter, the Director of Budget and Management shall transfer 68914
\$5,000,000 in cash from the Economic Development Projects Fund 68915

(Fund 5JC0) used by the Board of Regents to the Ohio Incumbent 68916
Workforce Job Training Fund (Fund 5HR0) used by the ~~Department of~~ 68917
Development Services Agency. The transferred funds are hereby 68918
appropriated in appropriation item 195622, Defense Development 68919
Assistance. 68920

The foregoing appropriation item 195622, Defense Development 68921
Assistance, shall be used for economic development programs and 68922
the creation of new jobs to leverage and support mission gains at 68923
Department of Defense facilities in Ohio by working with future 68924
base realignment and closure activities and ongoing Department of 68925
Defense efficiency initiatives, assisting efforts to secure 68926
Department of Defense support contracts for Ohio companies, 68927
assessing and supporting regional job training and workforce 68928
development needs generated by the Department of Defense and the 68929
Ohio aerospace industry, and for expanding job training and 68930
economic development programs in human performance related 68931
initiatives. These funds shall be matched by private industry 68932
partners or the Department of Defense in an aggregate amount of 68933
\$6,000,000 over the FY 2012-FY 2013 biennium. 68934

WORKFORCE DEVELOPMENT PROGRAMS 68935

The foregoing appropriation item 195655, Workforce 68936
Development Programs, may be used for the Ohio Workforce Guarantee 68937
Program to promote training through grants to businesses and, in 68938
the case of a business consortium, to the consortium for training 68939
and education providers for the reimbursement of eligible training 68940
expenses. Not more than ten per cent of appropriation item 195655, 68941
Workforce Development Programs, shall be used for administrative 68942
expenses related to the Ohio Workforce Guarantee Program. 68943

Sec. 261.30.10. ADVANCED ENERGY ~~FUND~~ LOAN PROGRAMS 68944

The foregoing appropriation item 195660, Advanced Energy Loan 68945
Programs, shall be used to provide financial assistance to 68946

customers for eligible advanced energy projects for residential, 68947
commercial, and industrial business, local government, educational 68948
institution, nonprofit, and agriculture customers, and to pay for 68949
the program's administrative costs as provided in sections 4928.61 68950
to 4928.63 of the Revised Code and rules adopted by the Director 68951
of Development Services. 68952

On July 1 of each fiscal year, or as soon as possible 68953
thereafter, the Director of Budget and Management shall transfer 68954
\$750,000 in cash from the Advanced Energy Fund (Fund 5M50) to the 68955
Alternative Fuel Transportation Grant Fund (Fund 5CG0). 68956

VOLUME CAP ADMINISTRATION 68957

The foregoing appropriation item 195654, Volume Cap 68958
Administration, shall be used for expenses related to the 68959
administration of the Volume Cap Program. Revenues received by the 68960
Volume Cap Administration Fund (Fund 6170) shall consist of 68961
application fees, forfeited deposits, and interest earned from the 68962
custodial account held by the Treasurer of State. 68963

Sec. 261.30.20. INNOVATION OHIO LOAN FUND 68964

The foregoing appropriation item 195664, Innovation Ohio, 68965
shall be used to provide for innovation Ohio purposes, including 68966
loan guarantees and loans under Chapter 166. and particularly 68967
sections 166.12 to 166.16 of the Revised Code. 68968

RESEARCH AND DEVELOPMENT 68969

The foregoing appropriation item 195665, Research and 68970
Development, shall be used to provide for research and development 68971
purposes, including loans, under Chapter 166. and particularly 68972
sections 166.17 to 166.21 of the Revised Code. 68973

LOGISTICS AND DISTRIBUTION INFRASTRUCTURE 68974

Appropriation item 195698, Logistics and Distribution 68975
Infrastructure, shall be used for eligible logistics and 68976

distribution infrastructure projects as defined in section 166.01 68977
of the Revised Code. Any unexpended and unencumbered portion of 68978
the appropriation item at the end of fiscal year 2011 is hereby 68979
reappropriated for the same purpose in fiscal year 2012, and any 68980
unexpended and unencumbered portion of the appropriation item at 68981
the end of fiscal year 2012 is hereby reappropriated for the same 68982
purpose in fiscal year 2013. 68983

After all encumbrances have been paid, the Director of Budget 68984
and Management shall transfer the remaining cash balance in the 68985
Logistics and Distribution Infrastructure Fund (Fund 7008) to the 68986
Facilities Establishment Fund (Fund 7037). 68987

FACILITIES ESTABLISHMENT ~~FUND~~ 68988

The foregoing appropriation item 195615, Facilities 68989
Establishment (Fund 7037), shall be used for the purposes of the 68990
Facilities Establishment Fund under Chapter 166. of the Revised 68991
Code. 68992

Notwithstanding Chapter 166. of the Revised Code, an amount 68993
not to exceed \$1,000,000 in cash in fiscal year 2012 may be 68994
transferred from the Facilities Establishment Fund (Fund 7037) to 68995
the ~~Economic Development Financing Operating~~ Business Assistance 68996
Fund (Fund 4510). The transfer is subject to Controlling Board 68997
approval under division (B) of section 166.03 of the Revised Code. 68998

Notwithstanding Chapter 166. of the Revised Code, the 68999
Director of Budget and Management may transfer an amount not to 69000
exceed \$2,500,000 in cash in each fiscal year from the Facilities 69001
Establishment Fund (Fund 7037) to the Minority Business Enterprise 69002
Loan Fund (Fund 4W10). 69003

On July 1, ~~2011~~ 2012, or as soon as possible thereafter, the 69004
Director of Budget and Management shall transfer the unexpended 69005
and unencumbered cash balance in the Urban Development Loans Fund 69006
(Fund 5D20) to the Facilities Establishment Fund (Fund 7037). 69007

On July 1, ~~2011~~ 2012, or as soon as possible thereafter, the 69008
Director of Budget and Management shall transfer the unexpended 69009
and unencumbered cash balance in the Rural Industrial Park Loan 69010
Fund (Fund 4Z60) to the Facilities Establishment Fund (Fund 7037). 69011

CAPITAL ACCESS LOAN PROGRAM 69012

The foregoing appropriation item 195628, Capital Access Loan 69013
Program, shall be used for operating, program, and administrative 69014
expenses of the program. Funds of the Capital Access Loan Program 69015
shall be used to assist participating financial institutions in 69016
making program loans to eligible businesses that face barriers in 69017
accessing working capital and obtaining fixed-asset financing. 69018

Sec. 261.30.30. CLEAN OHIO OPERATING EXPENSES 69019

The foregoing appropriation item 195663, Clean Ohio ~~Operating~~ 69020
Program, shall be used by the ~~Department of~~ Development Services 69021
Agency in administering Clean Ohio Revitalization Fund (Fund 7003) 69022
projects pursuant to sections 122.65 to 122.658 of the Revised 69023
Code. 69024

Sec. 261.30.40. THIRD FRONTIER OPERATING 69025

The foregoing appropriation items 195686, Third Frontier 69026
Operating, and 195620, Third Frontier Operating - Tax, shall be 69027
used for operating expenses incurred by the ~~Department of~~ 69028
Development Services Agency in administering projects pursuant to 69029
sections 184.10 to 184.20 of the Revised Code. Operating expenses 69030
paid from item 195686 shall be limited to the administration of 69031
projects funded from the Third Frontier Research & Development 69032
Fund (Fund 7011) and operating expenses paid from item 195620 69033
shall be limited to the administration of projects funded from the 69034
Third Frontier Research & Development Taxable Bond Project Fund 69035
(Fund 7014). 69036

Sec. 261.30.60. JOB READY SITE ~~OPERATING~~ PROGRAM 69037

The foregoing appropriation item 195688, Job Ready Site 69038
~~Operating Program~~, shall be used for operating expenses incurred 69039
by the ~~Department of~~ Development Services Agency in administering 69040
Job Ready Site Development Fund (Fund 7012) projects pursuant to 69041
sections 122.085 to 122.0820 of the Revised Code. Operating 69042
expenses include, but are not limited to, certain qualified 69043
expenses of the District Public Works Integrating Committees, as 69044
applicable, engineering review of submitted applications by the 69045
State Architect or a third-party engineering firm, audit and 69046
accountability activities, and costs associated with formal 69047
certifications verifying that site infrastructure is in place and 69048
is functional. 69049

Sec. 261.30.70. OHIO COAL DEVELOPMENT OFFICE 69050

On July 1, 2011, or as soon as possible thereafter, the 69051
Director of Budget and Management shall transfer any unexpended 69052
and unencumbered portion of appropriation item 898604, Coal 69053
Research and Development Fund, used by the Ohio Air Quality 69054
Development Authority, to a new capital appropriation item in the 69055
~~Department of~~ Development Services Agency, to be determined by the 69056
Director. The Director also shall cancel all outstanding 69057
encumbrances against appropriation item 898604, Coal Research and 69058
Development Fund, and reestablish them against the foregoing new 69059
capital appropriation item. The amounts of the transfer and the 69060
reestablished encumbrances, plus \$2,283,264, are hereby 69061
appropriated for fiscal year 2012 in the foregoing new 69062
appropriation item and shall be used to provide funding for coal 69063
research and development purposes. 69064

Sec. 261.30.80. THIRD FRONTIER BIOMEDICAL RESEARCH AND 69065
COMMERCIALIZATION SUPPORT 69066

The General Assembly and the Governor recognize the role that the biomedical industry has in job creation, innovation, and economic development throughout Ohio. It is the intent of the General Assembly, the Governor, the Director of Development Services, and the Director of Budget and Management to work together in continuing to provide comprehensive state support for the biomedical industry.

Sec. 261.30.90. UNCLAIMED FUNDS TRANSFER

(A)(1) Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, before June 30, 2012, shall transfer to the Job Development Initiatives Fund (Fund 5AD0) an amount not to exceed \$25,000,000 in cash of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, before June 30, 2013, shall transfer to the Job Development Initiatives Fund (Fund 5AD0) an amount not to exceed ~~\$15,000,000~~ 18,600,000 in cash of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

~~(B)~~(2) Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, before June 30, 2012, shall transfer to the State Special Projects Fund (Fund 4F20) an amount not to exceed \$5,000,000 in cash of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the

unclaimed funds described under that section. 69098

(B) ASSORTED TRANSFERS FOR RESTRUCTURING 69099

On July 1, 2012, or as soon as possible thereafter, the 69100
Director of Budget and Management shall transfer the cash balance 69101
in the Water and Sewer Fund (Fund 4440) to the General 69102
Reimbursement Fund (Fund 6850). 69103

On July 1, 2012, or as soon as possible thereafter, the 69104
Director of Budget and Management shall transfer the cash balance 69105
in the Water and Sewer Administration Fund (Fund 6110) to the 69106
General Reimbursement Fund (Fund 6850). 69107

On July 1, 2012, or as soon as possible thereafter, the 69108
Director of Budget and Management shall transfer the cash balance 69109
in the Tax Incentive Programs Operating Fund (Fund 4S00) to the 69110
Business Assistance Fund (Fund 4510). 69111

On July 1, 2012, or as soon as possible thereafter, the 69112
Director of Budget and Management shall transfer the cash balance 69113
in the Brownfield Stormwater Loan Fund (Fund 5KD0) to the New 69114
Market Tax Credit Program Fund (Fund 5JR0). 69115

Sec. 261.40.10. WORKFORCE DEVELOPMENT 69116

The Director of Development Services and the Director of Job 69117
and Family Services may enter into one or more interagency 69118
agreements between the two departments and take other actions the 69119
directors consider appropriate to further integrate workforce 69120
development into a larger economic development strategy, to 69121
implement the recommendations of the Workforce Policy Board, and 69122
to complete activities related to the transition of the 69123
administration of employment programs identified by the board. 69124
Subject to the approval of the Director of Budget and Management, 69125
the ~~Department of~~ Development Services Agency and the Department 69126
of Job and Family Services may expend moneys to support the 69127

recommendations of the Workforce Policy Board in the area of 69128
 integration of employment functions as described in this paragraph 69129
 and to complete implementation and transition activities from the 69130
 appropriations to those departments. 69131

Sec. 263.10. DDD DEPARTMENT OF DEVELOPMENTAL DISABILITIES 69132

General Revenue Fund 69133

GRF	320321	Central	\$	4,422,794	\$	4,422,794	69134
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Administration

GRF	320412	Protective Services	\$	2,174,826	\$	1,957,343	69135
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GRF	320415	Lease-Rental Payments	\$	18,394,250	\$	19,907,900	69136
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17,907,900

GRF	322407	Medicaid State Match	\$	218,034,162	\$	214,902,506	69137
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<u>GRF</u>	<u>322420</u>	<u>Screening and Early</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>300,000</u>	69138
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Intervention

GRF	322451	Family Support	\$	5,932,758	\$	5,932,758	69139
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Services

GRF	322501	County Boards	\$	40,906,365	\$	44,449,280	69140
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Subsidies

GRF	322503	Tax Equity	\$	14,000,000	\$	14,000,000	69141
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TOTAL GRF General Revenue Fund			\$	303,865,155	\$	305,572,581	69142
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303,872,581

General Services Fund Group 69143

1520	323609	Developmental Center	\$	3,414,317	\$	3,414,317	69144
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and Residential

Operating Services

TOTAL GSF General Services Fund			\$	3,414,317	\$	3,414,317	69145
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Group

Federal Special Revenue Fund Group 69146

3A50	320613	DD Council	\$	3,341,572	\$	3,341,572	69147
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3250	322612	Community Social	\$	11,017,754	\$	10,604,896	69148
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Service Programs

3DZ0	322648	Enhanced Medicaid - Federal	\$	10,000,000	\$	0	69149
3G60	322639	Medicaid Waiver - Federal	\$	866,566,007	\$	985,566,007	69150
3M70	322650	CAFS Medicaid	\$	29,349,502	\$	29,349,502 <u>3,000,000</u>	69151
3A40	323605	Developmental Center and Residential Facility Services and Support	\$	180,266,029	\$	179,384,881 <u>174,000,000</u>	69152
TOTAL FED	Federal Special Revenue		\$	1,100,540,864	\$	1,208,246,858 <u>1,176,512,475</u>	69153
Fund Group							
State Special Revenue	Fund Group						69154
5GE0	320606	Operating and Services	\$	7,406,609	\$	7,407,297	69155
2210	322620	Supplement Service Trust	\$	150,000	\$	150,000	69156
4K80	322604	Medicaid Waiver - State Match	\$	12,000,000	\$	12,000,000	69157
5CT0	322632	Intensive Behavioral Needs	\$	1,000,000	\$	1,000,000	69158
5DJ0	322625	Targeted Case Management Match	\$	21,000,000	\$	24,000,000	69159
5DJ0	322626	Targeted Case Management Services	\$	57,307,357	\$	66,000,000	69160
5DK0	322629	Capital Replacement Facilities	\$	750,000	\$	750,000	69161
5EV0	322627	Program Fees	\$	685,000	\$	685,000	69162
5H00	322619	Medicaid Repayment	\$	160,000	\$	160,000	69163
5JX0	322651	Interagency Workgroup - Autism	\$	45,000		45,000	69164
5Z10	322624	County Board Waiver Match	\$	235,000,000	\$	290,000,000	69165

4890	323632	Developmental Center	\$	16,497,170	\$	16,497,169	69166
		Direct Care Support					
5S20	590622	Medicaid	\$	20,875,567	\$	21,727,540	69167
		Administration & Oversight					
TOTAL SSR State Special Revenue			\$	372,876,703	\$	440,422,006	69168
Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	1,780,697,039	\$	1,957,655,762 <u>1,924,221,379</u>	69169

Sec. 263.10.30. FAMILY SCREENING AND EARLY INTERVENTION 69171

The foregoing appropriation item 322420, Screening and Early Intervention, shall be used for screening and early intervention programs for children with autism selected by the Director. 69172
69173
69174

FAMILY SUPPORT SERVICES SUBSIDY 69175

(A) The foregoing appropriation item 322451, Family Support Services, may be used as follows in fiscal year 2012 and fiscal year 2013: 69176
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(1) The appropriation item may be used to provide a subsidy to county boards of developmental disabilities for family support services provided under section 5126.11 of the Revised Code. The subsidy shall be paid in quarterly installments and allocated to county boards according to a formula the Director of Developmental Disabilities shall develop in consultation with representatives of county boards. A county board shall use not more than seven per cent of its subsidy for administrative costs. 69179
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(2) The appropriation item may be used to distribute funds to county boards for the purpose of addressing economic hardships and to promote efficiency of operations. In consultation with representatives of county boards, the Director shall determine the amount of funds to distribute for these purposes and the criteria for distributing the funds. 69187
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(B) Each county board shall submit reports to the Department of Developmental Disabilities on the use of funds received under this section. The reports shall be submitted at the times and in the manner specified in rules the Director shall adopt in accordance with Chapter 119. of the Revised Code.

Sec. 263.10.90. TARGETED CASE MANAGEMENT SERVICES

County boards of developmental disabilities shall pay the nonfederal portion of targeted case management costs to the Department of Developmental Disabilities.

The Directors of Developmental Disabilities and Job and Family Services may enter into an interagency agreement under which the Department of Developmental Disabilities shall transfer cash from the Targeted Case Management Fund (Fund 5DJ0) to the ~~Medicaid Program Support~~ State Health Care/Medicaid Support and Recoveries Fund (Fund ~~5C90~~ 5DL0) used by the Department of Job and Family Services in an amount equal to the nonfederal portion of the cost of targeted case management services paid by county boards, and the Department of Job and Family Services shall pay the total cost of targeted case management claims. The transfer shall be made using an intrastate transfer voucher.

Sec. 263.20.40. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER PHARMACY PROGRAMS

The Director of Developmental Disabilities shall quarterly transfer cash from the Medicaid - Medicare Fund (Fund 3A40) to the ~~Medicaid Program Support~~ State Health Care/Medicaid Support and Recoveries Fund (Fund ~~5C90~~ 5DL0) used by the Department of Job and Family Services, in an amount equal to the nonfederal share of Medicaid prescription drug claim costs for all developmental centers paid by the Department of Job and Family Services. The quarterly transfer shall be made using an intrastate transfer

voucher. 69223

Sec. 263.20.70. RATE INCREASE FOR WAIVER PROVIDERS SERVING 69224
FORMER RESIDENTS OF DEVELOPMENTAL CENTERS OR RESIDENTS OF 69225
CONVERTED FACILITIES 69226

Subject (A) As used in this section, "converted facility" 69227
means an intermediate care facility for the mentally retarded as 69228
defined in section 5111.20 of the Revised Code, or former 69229
intermediate care facility for the mentally retarded, that 69230
converted some or all of its beds to providing home and 69231
community-based services under the Individual Options Waiver 69232
pursuant to section 5111.874 of the Revised Code. 69233

(B) Subject to approval by the Centers for Medicare and 69234
Medicaid Services, the Department of Job and Family Services shall 69235
increase the rate paid to a provider under the Individual Options 69236
Waiver by fifty-two cents for each fifteen minutes of routine 69237
homemaker/personal care provided to an individual for up to a year 69238
if all of the following apply: 69239

~~(A)~~(1) The individual was a resident of a developmental 69240
center or converted facility immediately prior to enrollment in 69241
the waiver; 69242

~~(B)~~(2) The provider begins serving the individual on or after 69243
July 1, 2011; 69244

~~(C)~~(3) The Director of Developmental Disabilities determines 69245
that the increased rate is warranted by the individual's special 69246
circumstances, including the individual's diagnosis, service 69247
needs, or length of stay at the developmental center or converted 69248
facility, and that serving the individual through the Individual 69249
Options Waiver is fiscally prudent for the Medicaid program. 69250

Sec. 267.10. EDU DEPARTMENT OF EDUCATION 69251

General Revenue Fund					69252
GRF 200100	Personal Services	\$	8,579,178	\$ 8,579,178 0	69253
GRF 200320	Maintenance and Equipment	\$	2,830,407	\$ 2,830,407 0	69254
<u>GRF 200321</u>	<u>Operating Expenses</u>	<u>\$</u>	<u>0</u>	<u>\$ 13,142,780</u>	69255
GRF 200408	Early Childhood Education	\$	23,268,341	\$ 23,268,341	69256
GRF 200416	Career-Technical Education Match	\$	2,233,195	\$ 2,233,195 0	69257
GRF 200420	Computer/Application/ Network Information Technology Development and Support	\$	4,241,296	\$ 4,241,296	69258
GRF 200421	Alternative Education Programs	\$	7,403,998	\$ 7,403,998	69259
GRF 200422	School Management Assistance	\$	2,842,812	\$ 3,000,000	69260
GRF 200424	Policy Analysis	\$	328,558	\$ 328,558	69261
GRF 200425	Tech Prep Consortia Support	\$	260,542	\$ 260,542	69262
GRF 200426	Ohio Educational Computer Network	\$	17,974,489	\$ 17,974,489	69263
GRF 200427	Academic Standards	\$	4,346,060	\$ 3,700,000	69264
GRF 200437	Student Assessment	\$	55,002,167	\$ 55,002,167	69265
GRF 200439	Accountability/Report Cards	\$	3,579,279	\$ 3,579,279	69266
GRF 200442	Child Care Licensing	\$	827,140	\$ 827,140	69267
GRF 200446	Education Management Information System	\$	6,833,070	\$ 6,833,070	69268
GRF 200447	GED Testing	\$	879,551	\$ 879,551	69269
GRF 200448	Educator Preparation	\$	786,737	\$ 786,737	69270
GRF 200455	Community Schools and Choice Programs	\$	2,200,000	\$ 2,200,000	69271

GRF 200502	Pupil Transportation	\$ 438,248,936	\$ 442,113,527	69272
GRF 200505	School Lunch Match	\$ 9,100,000	\$ 9,100,000	69273
GRF 200511	Auxiliary Services	\$ 124,194,099	\$ 126,194,099	69274
GRF 200532	Nonpublic	\$ 56,164,384	\$ 57,006,850	69275
	Administrative Cost			
	Reimbursement			
GRF 200540	Special Education	\$ 135,820,668	\$ 135,820,668	69276
	Enhancements			
GRF 200545	Career-Technical	\$ 8,802,699	\$ 8,802,699	69277
	Education Enhancements			
GRF 200550	Foundation Funding	\$ 5,536,347,861	\$ 5,610,290,686	69278
			<u>5,612,562,311</u>	
GRF 200901	Property Tax	\$ 1,086,500,000	\$ 1,095,000,000	69279
	Allocation - Education			
TOTAL GRF General Revenue Fund		\$ 7,539,595,467	\$ 7,628,256,477	69280
			<u>7,630,028,102</u>	
General Services Fund Group				69281
1380 200606	Computer	\$ 7,600,090	\$ 7,600,090	69282
	Services Operational		<u>6,100,090</u>	
	<u>Information</u>			
	<u>Technology</u>			
	<u>Development and</u>			
	Support			
4520 200638	Miscellaneous	\$ 300,000	\$ 300,000	69283
	Educational Services			
	<u>Fees and Refunds</u>			
4L20 200681	Teacher Certification	\$ 8,147,756	\$ 8,147,756	69284
	and Licensure			
5960 200656	Ohio Career	\$ 529,761	\$ 529,761	69285
	Information System			
5H30 200687	School District	\$ 25,000,000	\$ 25,000,000	69286
	Solvency Assistance			
TOTAL GSF General Services				69287

Fund Group		\$	41,577,607	\$	41,577,607	69288	
					<u>40,077,607</u>		
Federal Special Revenue Fund Group						69289	
3090	200601	Neglected and	\$	2,168,642	\$	2,168,642	69290
		Delinquent Education					
3670	200607	School Food Services	\$	6,803,472	\$	6,959,906	69291
3690	200616	Career-Technical	\$	5,000,000	\$	5,000,000	69292
		Education Federal					
		Enhancement					
3700	200624	Education of	\$	1,905,000	\$	0	69293
		Exceptional Children					
3780	200660	Learn and Serve	\$	619,211	\$	619,211	69294
3AF0	200603	Schools Medicaid	\$	639,000	\$	639,000	69295
		Administrative Claims					
3AN0	200671	School Improvement	\$	20,400,000	\$	20,400,000	69296
		Grants					
3AX0	200698	Improving Health and	\$	630,954	\$	630,954	69297
		Educational Outcomes					
		of Young People					
3BK0	200628	Longitudinal Data	\$	500,000	\$	250,000	69298
		Systems					
3C50	200661	Early Childhood	\$	14,554,749	\$	14,554,749	69299
		Education					
3CG0	200646	Teacher Incentive	\$	1,925,881	\$	0	69300
		Fund					
3D10	200664	Drug Free Schools	\$	1,500,000	\$	0	69301
3D20	200667	Math Science	\$	9,500,001	\$	9,500,001	69302
		Partnerships					
3DG0	200630	Federal Stimulus -	\$	330,512	\$	0	69303
		McKinney Vento Grants					
3DJ0	200699	IDEA Part B - Federal	\$	21,886,803	\$	0	69304
		Stimulus					
3DK0	200642	Title 1A - Federal	\$	18,633,673	\$	0	69305

		Stimulus					
3DL0	200650	IDEA Preschool -	\$	670,000	\$	0	69306
		Federal Stimulus					
3DM0	200651	Title IID Technology	\$	1,195,100	\$	0	69307
		- Federal Stimulus					
3DP0	200652	Title I School	\$	48,500,000	\$	30,000,000	69308
		Improvement - Federal					
		Stimulus					
3EC0	200653	Teacher Incentive -	\$	7,500,000	\$	7,500,000	69309
		Federal Stimulus					
3EH0	200620	Migrant Education	\$	2,645,905	\$	2,645,905	69310
3EJ0	200622	Homeless Children	\$	1,759,782	\$	1,759,782	69311
		Education					
3EN0	200655	State Data Systems -	\$	2,500,000	\$	2,500,000	69312
		Federal Stimulus					
3ES0	200657	General Supervisory	\$	500,000	\$	500,000	69313
		Enhancement Grant					
3ET0	200658	Education Jobs Fund	\$	300,000,000	\$	50,000,000	69314
3FD0	200665	Race to the Top	\$	100,000,000	\$	100,000,000	69315
3FE0	200669	Striving Readers	\$	180,000	\$	100,000	69316
3H90	200605	Head Start	\$	225,000	\$	225,000	69317
		Collaboration Project					
3L60	200617	Federal School Lunch	\$	327,516,539	\$	337,323,792	69318
3L70	200618	Federal School	\$	87,596,850	\$	90,224,756	69319
		Breakfast					
3L80	200619	Child/Adult Food	\$	100,850,833	\$	103,876,359	69320
		Programs					
3L90	200621	Career-Technical	\$	48,466,864	\$	48,466,864	69321
		Education Basic Grant					
3M00	200623	ESEA Title 1A	\$	530,010,000	\$	530,010,000	69322
3M20	200680	Individuals with	\$	443,170,050	\$	443,170,050	69323
		Disabilities					
		Education Act					

3S20	200641	Education Technology	\$	9,487,397	\$	9,487,397	69324
3T40	200613	Public Charter Schools	\$	14,291,353	\$	14,291,353	69325
3Y20	200688	21st Century Community Learning Centers	\$	43,720,462	\$	45,906,485	69326
3Y60	200635	Improving Teacher Quality	\$	101,900,000	\$	101,900,000	69327
3Y70	200689	English Language Acquisition	\$	8,373,995	\$	8,373,995	69328
3Y80	200639	Rural and Low Income Technical Assistance	\$	1,500,000	\$	1,500,000	69329
3Z20	200690	State Assessments	\$	11,882,258	\$	11,882,258	69330
3Z30	200645	Consolidated Federal Grant Administration	\$	8,949,280	\$	8,949,280 <u>7,949,280</u>	69331
TOTAL FED Federal Special							69332
Revenue Fund Group			\$	2,310,389,566	\$	2,011,315,739 <u>2,010,315,739</u>	69333
State Special Revenue Fund Group							69334
4540	200610	Guidance and <u>GED</u> Testing	\$	1,050,000	\$	1,050,000	69335
4550	200608	Commodity Foods	\$	24,000,000	\$	24,000,000	69336
4R70	200695	Indirect Operational Support	\$	6,500,000	\$	6,600,000	69337
4V70	200633	Interagency Operational Program Support	\$	1,117,725	\$	1,117,725 <u>717,725</u>	69338
5980	200659	Auxiliary Services Reimbursement	\$	1,328,910	\$	1,328,910	69339
5BB0	200696	State Action for Education Leadership	\$	231,300	\$	0	69340
5BJ0	200626	Half-Mill Maintenance Equalization	\$	17,300,000	\$	18,000,000	69341

5U20 200685	National Education	\$	300,000	\$	300,000	69342
	Statistics					
6200 200615	Educational	\$	3,000,000	\$	3,000,000	69343
	Improvement Grants					
TOTAL SSR	State Special Revenue					69344
Fund Group		\$	54,827,935	\$	55,396,635	69345
					<u>54,996,635</u>	
Lottery Profits	Education Fund Group					69346
7017 200612	Foundation Funding	\$	717,500,000	\$	680,500,000	69347
TOTAL LPE	Lottery Profits					69348
Education Fund Group		\$	717,500,000	\$	680,500,000	69349
Revenue Distribution	Fund Group					69350
7047 200909	School District	\$	722,000,000	\$	475,000,000	69351
	Property Tax					
	Replacement-Business					
7053 200900	School District	\$	34,000,000	\$	30,000,000	69352
	Property Tax					
	Replacement-Utility					
TOTAL RDF	Revenue Distribution					69353
Fund Group		\$	756,000,000	\$	505,000,000	69354
TOTAL ALL BUDGET FUND GROUPS		\$11,419,890,575		\$10,922,046,458		69355
					<u>10,920,918,083</u>	

Sec. 267.10.10. OPERATING EXPENSES

69357

The foregoing appropriation item 200321, Operating Expenses, 69358
shall be used to support the same activities as are supported 69359
prior to July 1, 2012, by appropriation items 200100, Personal 69360
Services, and 200320, Maintenance and Equipment. A portion of this 69361
appropriation item also shall be used by the Department of 69362
Education to provide matching funds under 20 U.S.C. 2321, which 69363
are provided by appropriation item 200416, Career-Technical 69364
Education Match, prior to July 1, 2012. 69365

On July 1, 2012, or as soon as possible thereafter, the 69366
Director of Budget and Management shall cancel any existing 69367
encumbrances against appropriation items 200100, Personal 69368
Services, 200320, Maintenance and Equipment, and 200416, 69369
Career-Technical Education Match, and reestablish them against 69370
appropriation item 200321, Operating Expenses. The reestablished 69371
encumbrance amounts are hereby appropriated. 69372

EARLY CHILDHOOD EDUCATION 69373

The Department of Education shall distribute the foregoing 69374
appropriation item 200408, Early Childhood Education, to pay the 69375
costs of early childhood education programs. 69376

(A) As used in this section: 69377

(1) "Provider" means a city, local, exempted village, or 69378
joint vocational school district, or an educational service 69379
center. 69380

(2) In the case of a city, local, or exempted village school 69381
district, "new eligible provider" means a district that did not 69382
receive state funding for Early Childhood Education in the 69383
previous fiscal year or demonstrates a need for early childhood 69384
programs as defined in division (D) of this section. 69385

(3) "Eligible child" means a child who is at least three 69386
years of age as of the district entry date for kindergarten, is 69387
not of the age to be eligible for kindergarten, and whose family 69388
earns not more than two hundred per cent of the federal poverty 69389
guidelines as defined in division (A)(3) of section 5101.46 of the 69390
Revised Code. Children with an Individualized Education Program 69391
and where the Early Childhood Education program is the least 69392
restrictive environment may be enrolled on their third birthday. 69393

(B) In each fiscal year, up to two per cent of the total 69394
appropriation may be used by the Department for program support 69395
and technical assistance. The Department shall distribute the 69396

remainder of the appropriation in each fiscal year to serve 69397
eligible children. 69398

(C) The Department shall provide an annual report to the 69399
Governor, the Speaker of the House of Representatives, and the 69400
President of the Senate and post the report to the Department's 69401
web site, regarding early childhood education programs operated 69402
under this section and the early learning program guidelines. 69403

(D) After setting aside the amounts to make payments due from 69404
the previous fiscal year, in fiscal year 2012, the Department 69405
shall distribute funds first to recipients of funds for early 69406
childhood education programs under Section 265.10.20 of Am. Sub. 69407
H.B. 1 of the 128th General Assembly in the previous fiscal year 69408
and the balance to new eligible providers of early childhood 69409
education programs under this section or to existing providers to 69410
serve more eligible children or for purposes of program expansion, 69411
improvement, or special projects to promote quality and 69412
innovation. 69413

After setting aside the amounts to make payments due from the 69414
previous fiscal year, in fiscal year 2013, the Department shall 69415
distribute funds first to providers of early childhood education 69416
programs under this section in the previous fiscal year and the 69417
balance to new eligible providers or to existing providers to 69418
serve more eligible children or for purposes of program expansion, 69419
improvement, or special projects to promote quality and 69420
innovation. 69421

Awards under this section shall be distributed on a per-pupil 69422
basis, and in accordance with division (H) of this section. The 69423
Department may adjust the per-pupil amount so that the per-pupil 69424
amount multiplied by the number of eligible children enrolled and 69425
receiving services on the first day of December or the business 69426
day closest to that date equals the amount allocated under this 69427
section. 69428

(E) Costs for developing and administering an early childhood education program may not exceed fifteen per cent of the total approved costs of the program.

All providers shall maintain such fiscal control and accounting procedures as may be necessary to ensure the disbursement of, and accounting for, these funds. The control of funds provided in this program, and title to property obtained, shall be under the authority of the approved provider for purposes provided in the program unless, as described in division (J) of this section, the program waives its right for funding or a program's funding is eliminated or reduced due to its inability to meet financial or early learning program guidelines. The approved provider shall administer and use such property and funds for the purposes specified.

(F) The Department may examine a provider's financial and program records. If the financial practices of the program are not in accordance with standard accounting principles or do not meet financial standards outlined under division (E) of this section, or if the program fails to substantially meet the early learning program guidelines, meet a quality rating level in the tiered quality rating and improvement system developed under section 5104.30 of the Revised Code as prescribed by the Department, or exhibits below average performance as measured against the guidelines, the early childhood education program shall propose and implement a corrective action plan that has been approved by the Department. The approved corrective action plan shall be signed by the chief executive officer and the executive of the official governing body of the provider. The corrective action plan shall include a schedule for monitoring by the Department. Such monitoring may include monthly reports, inspections, a timeline for correction of deficiencies, and technical assistance to be provided by the Department or obtained by the early

childhood education program. The Department may withhold funding 69461
pending corrective action. If an early childhood education program 69462
fails to satisfactorily complete a corrective action plan, the 69463
Department may deny expansion funding to the program or withdraw 69464
all or part of the funding to the program and establish a new 69465
eligible provider through a selection process established by the 69466
Department. 69467

(G) Each early childhood education program shall do all of 69468
the following: 69469

(1) Meet teacher qualification requirements prescribed by 69470
section 3301.311 of the Revised Code; 69471

(2) Align curriculum to the early learning content standards 69472
developed by the Department; 69473

(3) Meet any child or program assessment requirements 69474
prescribed by the Department; 69475

(4) Require teachers, except teachers enrolled and working to 69476
obtain a degree pursuant to section 3301.311 of the Revised Code, 69477
to attend a minimum of twenty hours every two years of 69478
professional development as prescribed by the Department; 69479

(5) Document and report child progress as prescribed by the 69480
Department; 69481

(6) Meet and report compliance with the early learning 69482
program guidelines as prescribed by the Department; 69483

(7) Participate in the tiered quality rating and improvement 69484
system developed under section 5104.30 of the Revised Code. 69485
Effective July 1, 2016, all programs shall be rated through the 69486
system. 69487

(H) Per-pupil funding for programs subject to this section 69488
shall be sufficient to provide eligible children with services for 69489
a standard early childhood schedule which shall be defined in this 69490

section as a minimum of twelve and one-half hours per school week 69491
as defined in section 3313.62 of the Revised Code for the minimum 69492
school year as defined in sections 3313.48, 3313.481, and 3313.482 69493
of the Revised Code. Nothing in this section shall be construed to 69494
prohibit program providers from utilizing other funds to serve 69495
eligible children in programs that exceed the twelve and one-half 69496
hours per week or that exceed the minimum school year. For any 69497
provider for which a standard early childhood education schedule 69498
creates a hardship or for which the provider shows evidence that 69499
the provider is working in collaboration with a preschool special 69500
education program, the provider may submit a waiver to the 69501
Department requesting an alternate schedule. If the Department 69502
approves a waiver for an alternate schedule that provides services 69503
for less time than the standard early childhood education 69504
schedule, the Department may reduce the provider's annual 69505
allocation proportionately. Under no circumstances shall an annual 69506
allocation be increased because of the approval of an alternate 69507
schedule. 69508

(I) Each provider shall develop a sliding fee scale based on 69509
family incomes and shall charge families who earn more than two 69510
hundred per cent of the federal poverty guidelines, as defined in 69511
division (A)(3) of section 5101.46 of the Revised Code, for the 69512
early childhood education program. 69513

The Department shall conduct an annual survey of each 69514
provider to determine whether the provider charges families 69515
tuition or fees, the amount families are charged relative to 69516
family income levels, and the number of families and students 69517
charged tuition and fees for the early childhood program. 69518

(J) If an early childhood education program voluntarily 69519
waives its right for funding, or has its funding eliminated for 69520
not meeting financial standards or the early learning program 69521
guidelines, the provider shall transfer control of title to 69522

property, equipment, and remaining supplies obtained through the 69523
program to providers designated by the Department and return any 69524
unexpended funds to the Department along with any reports 69525
prescribed by the Department. The funding made available from a 69526
program that waives its right for funding or has its funding 69527
eliminated or reduced may be used by the Department for new grant 69528
awards or expansion grants. The Department may award new grants or 69529
expansion grants to eligible providers who apply. The eligible 69530
providers who apply must do so in accordance with the selection 69531
process established by the Department. 69532

(K) As used in this section, "early learning program 69533
guidelines" means the guidelines established by the Department 69534
pursuant to division (C)(3) of Section 206.09.54 of Am. Sub. H.B. 69535
66 of the 126th General Assembly. 69536

(L) Eligible expenditures for the Early Childhood Education 69537
program shall be claimed each fiscal year to help meet the state's 69538
TANF maintenance of effort requirement. The Superintendent of 69539
Public Instruction and the Director of Job and Family Services 69540
shall enter into an interagency agreement to carry out the 69541
requirements under this division, which shall include developing 69542
reporting guidelines for these expenditures. 69543

Sec. 267.10.20. CAREER-TECHNICAL EDUCATION MATCH 69544

~~The~~ For fiscal year 2012, the foregoing appropriation item 69545
200416, Career-Technical Education Match, shall be used by the 69546
Department of Education to provide ~~vocational administration~~ 69547
matching funds under 20 U.S.C. ~~2311~~ 2321. 69548

~~The Director of Budget and Management shall transfer any~~ 69549
~~remaining appropriation from appropriation item 200416,~~ 69550
~~Career Technical Education Match, to appropriation item 200426,~~ 69551
~~Ohio Educational Computer Network, to support the Ohio Educational~~ 69552
~~Computer Network.~~ 69553

COMPUTER/APPLICATION/NETWORK INFORMATION TECHNOLOGY 69554
DEVELOPMENT AND SUPPORT 69555

The foregoing appropriation item 200420, 69556
~~Computer/Application/Network~~ Information Technology Development 69557
and Support, shall be used to support the development and 69558
implementation of information technology solutions designed to 69559
improve the performance and services of the Department of 69560
Education. Funds may be used for personnel, maintenance, and 69561
equipment costs related to the development and implementation of 69562
these technical system projects. Implementation of these systems 69563
shall allow the Department to provide greater levels of assistance 69564
to school districts and to provide more timely information to the 69565
public, including school districts, administrators, and 69566
legislators. Funds may also be used to support data-driven 69567
decision-making and differentiated instruction, as well as to 69568
communicate academic content standards and curriculum models to 69569
schools through web-based applications. 69570

Sec. 267.10.40. SCHOOL MANAGEMENT ASSISTANCE 69571

Of the foregoing appropriation item 200422, School Management 69572
Assistance, \$1,000,000 in each fiscal year ~~2012 and \$1,300,000 in~~ 69573
~~fiscal year 2013~~ shall be used by the Auditor of State in 69574
consultation with the Department of Education for expenses 69575
incurred in the Auditor of State's role relating to fiscal 69576
caution, fiscal watch, and fiscal emergency activities as defined 69577
in Chapter 3316. of the Revised Code and may also be used by the 69578
Auditor of State to conduct performance audits of other school 69579
districts with priority given to districts in fiscal distress. 69580
Districts in fiscal distress shall be determined by the Auditor of 69581
State and shall include districts that the Auditor of State, in 69582
consultation with the Department of Education, determines are 69583
employing fiscal practices or experiencing budgetary conditions 69584

that could produce a state of fiscal watch or fiscal emergency. 69585

The remainder of appropriation item 200422, School Management 69586
Assistance, shall be used by the Department of Education to 69587
provide fiscal technical assistance and inservice education for 69588
school district management personnel and to administer, monitor, 69589
and implement the fiscal caution, fiscal watch, and fiscal 69590
emergency provisions under Chapter 3316. of the Revised Code. 69591

Sec. 267.30.20. SPECIAL EDUCATION ENHANCEMENTS 69592

Of the foregoing appropriation item 200540, Special Education 69593
Enhancements, up to \$2,206,875 in each fiscal year shall be used 69594
for home instruction for children with disabilities. 69595

Of the foregoing appropriation item 200540, Special Education 69596
Enhancements, up to \$45,282,959 in each fiscal year shall be used 69597
to fund special education and related services at county boards of 69598
developmental disabilities for eligible students under section 69599
3317.20 of the Revised Code and at institutions for eligible 69600
students under section 3317.201 of the Revised Code. 69601
Notwithstanding the distribution formulas under sections 3317.20 69602
and 3317.201 of the Revised Code, funding for DD boards and 69603
institutions for fiscal year 2012 and fiscal year 2013 shall be 69604
determined by providing the per pupil amount received by each DD 69605
board and institution for the prior fiscal year for each student 69606
served in the current fiscal year. 69607

Of the foregoing appropriation item 200540, Special Education 69608
Enhancements, up to \$1,333,468 in each fiscal year shall be used 69609
for parent mentoring programs. 69610

Of the foregoing appropriation item 200540, Special Education 69611
Enhancements, up to \$2,537,824 in each fiscal year may be used for 69612
school psychology interns. 69613

The remainder of appropriation item 200540, Special Education 69614

Enhancements, shall be distributed by the Department of Education 69615
to county boards of developmental disabilities, educational 69616
service centers, and school districts for preschool special 69617
education units and preschool supervisory units under section 69618
3317.052 of the Revised Code. To the greatest extent possible, the 69619
Department of Education shall allocate these units to school 69620
districts and educational service centers. 69621

The Department may reimburse county DD boards, educational 69622
service centers, and school districts for services provided by 69623
instructional assistants, related services as defined in rule 69624
3301-51-11 of the Administrative Code, physical therapy services 69625
provided by a licensed physical therapist or physical therapist 69626
assistant under the supervision of a licensed physical therapist 69627
as required under Chapter 4755. of the Revised Code and Chapter 69628
4755-27 of the Administrative Code and occupational therapy 69629
services provided by a licensed occupational therapist or 69630
occupational therapy assistant under the supervision of a licensed 69631
occupational therapist as required under Chapter 4755. of the 69632
Revised Code and Chapter 4755-7 of the Administrative Code. 69633
Nothing in this section authorizes occupational therapy assistants 69634
or physical therapist assistants to generate or manage their own 69635
caseloads. 69636

The Department of Education shall require school districts, 69637
educational service centers, and county DD boards serving 69638
preschool children with disabilities to adhere to Ohio's Early 69639
Learning Program Guidelines, participate in the tiered quality 69640
rating and improvement system developed under section 5104.30 of 69641
the Revised Code, and document child progress using research-based 69642
indicators prescribed by the Department and report results 69643
annually. The reporting dates and method shall be determined by 69644
the Department. Effective July 1, 2018, all programs shall be 69645
rated through the tiered quality rating and improvement system. 69646

Sec. 267.30.40. FOUNDATION FUNDING 69647

Of the foregoing appropriation item 200550, Foundation 69648
Funding, up to \$675,000 in each fiscal year shall be used to 69649
support the work of the College of Education and Human Ecology at 69650
the Ohio State University in reviewing and assessing the alignment 69651
of courses offered through the distance learning clearinghouse 69652
established in sections 3333.81 to 3333.88 of the Revised Code 69653
with the academic content standards adopted under division (A) of 69654
section 3301.079 of the Revised Code. 69655

Of the foregoing appropriation item 200550, Foundation 69656
Funding, up to \$250,000 in each fiscal year may be used by the 69657
Department to fund a shared services pilot project involving at 69658
least two educational service centers. The pilot project shall 69659
focus on the design, implementation, and evaluation of a shared 69660
service delivery model. The educational service centers 69661
participating in the pilot project shall submit a report not later 69662
than September 1, 2013, to the Governor, members of the General 69663
Assembly, and members of the State Board of Education, reviewing 69664
the opportunities and challenges of implementing shared services 69665
initiatives as well as any real or projected cost efficiencies 69666
achieved through the pilot project. 69667

Of the foregoing appropriation item 200550, Foundation 69668
Funding, up to \$50,000 shall be expended in each fiscal year for 69669
court payments under section 2151.362 of the Revised Code. 69670

Of the foregoing appropriation item 200550, Foundation 69671
Funding, up to \$8,100,000 in each fiscal year shall be used to 69672
fund gifted education at educational service centers. 69673
Notwithstanding division (D)(5) of section 3317.018 of the Revised 69674
Code, the Department shall distribute the funding through the 69675
unit-based funding methodology in place under division (L) of 69676
section 3317.024, division (E) of section 3317.05, and divisions 69677

(A), (B), and (C) of section 3317.053 of the Revised Code as they 69678
existed prior to fiscal year 2010. 69679

Of the foregoing appropriation item 200550, Foundation 69680
Funding, up to \$10,000,000 in each fiscal year shall be used to 69681
provide additional state aid to school districts, joint vocational 69682
school districts, and community schools for special education 69683
students under division (C)(3) of section 3317.022 of the Revised 69684
Code, except that the Controlling Board may increase these amounts 69685
if presented with such a request from the Department of Education 69686
at the final meeting of the fiscal year; and up to \$2,000,000 in 69687
each fiscal year shall be reserved for Youth Services tuition 69688
payments under section 3317.024 of the Revised Code. 69689

Of the foregoing appropriation item 200550, Foundation 69690
Funding, up to \$41,760,000 in fiscal year 2012 and up to 69691
\$35,496,000 in fiscal year 2013 shall be reserved to fund the 69692
state reimbursement of educational service centers under section 69693
3317.11 of the Revised Code and the section of this act entitled 69694
"EDUCATIONAL SERVICE CENTERS FUNDING"; and up to \$3,545,752 in 69695
each fiscal year shall be distributed to educational service 69696
centers for School Improvement Initiatives. Educational service 69697
centers shall be required to support districts in the development 69698
and implementation of their continuous improvement plans as 69699
required in section 3302.04 of the Revised Code and to provide 69700
technical assistance and support in accordance with Title I of the 69701
"No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 69702
6317. 69703

Of the foregoing appropriation item 200550, Foundation 69704
Funding, up to \$700,000 in each fiscal year shall be used by the 69705
Department of Education for a program to pay for educational 69706
services for youth who have been assigned by a juvenile court or 69707
other authorized agency to any of the facilities described in 69708
division (A) of the section of this act entitled "PRIVATE 69709

TREATMENT FACILITY PROJECT." 69710

Of the foregoing appropriation item 200550, Foundation 69711
Funding, up to \$12,522,860 in ~~each~~ fiscal year 2012 and up to 69712
\$14,794,485 in fiscal year 2013 shall be used to support ~~the~~ 69713
~~Cleveland~~ school choice ~~program~~ programs. 69714

Of the portion of the funds distributed to the Cleveland 69715
Municipal School District under this section, up to \$11,901,887 in 69716
each fiscal year shall be used to operate the school choice 69717
program in the Cleveland Municipal School District under sections 69718
3313.974 to 3313.979 of the Revised Code. Notwithstanding 69719
divisions (B) and (C) of section 3313.978 and division (C) of 69720
section 3313.979 of the Revised Code, up to \$1,000,000 in each 69721
fiscal year of this amount shall be used by the Cleveland 69722
Municipal School District to provide tutorial assistance as 69723
provided in division (H) of section 3313.974 of the Revised Code. 69724
The Cleveland Municipal School District shall report the use of 69725
these funds in the district's three-year continuous improvement 69726
plan as described in section 3302.04 of the Revised Code in a 69727
manner approved by the Department of Education. 69728

Any sums, in addition to the amounts specifically 69729
appropriated in appropriation item 200550, Foundation Funding, for 69730
payments of the scholarships required under sections 3313.974 to 69731
3313.979 of the Revised Code, which are determined to be necessary 69732
by the Superintendent of Public Instruction, are hereby 69733
appropriated. 69734

Of the foregoing appropriation item 200550, Foundation 69735
Funding, an amount shall be available in each fiscal year to be 69736
paid to joint vocational school districts in accordance with the 69737
section of this act entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL 69738
DISTRICTS." 69739

Of the foregoing appropriation item 200550, Foundation 69740

Funding, a portion in each fiscal year shall be paid to city, 69741
exempted village, and local school districts in accordance with 69742
the section of this act entitled "SUPPLEMENTAL SCHOOL DISTRICT 69743
FUNDING." 69744

Of the foregoing appropriation item 200550, Foundation 69745
Funding, a portion in each fiscal year shall be paid to school 69746
districts and community schools in accordance with the section of 69747
this act entitled "SUBSIDY FOR HIGH PERFORMING SCHOOL DISTRICTS." 69748

The remainder of appropriation item 200550, Foundation 69749
Funding, shall be used to distribute the amounts calculated for 69750
formula aid under Section 267.30.50 of this act. 69751

Appropriation items 200502, Pupil Transportation, 200540, 69752
Special Education Enhancements, and 200550, Foundation Funding, 69753
other than specific set-asides, are collectively used in each 69754
fiscal year to pay state formula aid obligations for school 69755
districts, community schools, STEM schools, and joint vocational 69756
school districts under this act. The first priority of these 69757
appropriation items, with the exception of specific set-asides, is 69758
to fund state formula aid obligations. It may be necessary to 69759
reallocate funds among these appropriation items or use excess 69760
funds from other general revenue fund appropriation items in the 69761
Department of Education's budget in each fiscal year, in order to 69762
meet state formula aid obligations. If it is determined that it is 69763
necessary to transfer funds among these appropriation items or to 69764
transfer funds from other General Revenue Fund appropriations in 69765
the Department of Education's budget to meet state formula aid 69766
obligations, the Department of Education shall seek approval from 69767
the Controlling Board to transfer funds as needed. 69768

Sec. 279.10. EPA ENVIRONMENTAL PROTECTION AGENCY 69769
General Services Fund Group 69770

As Pending in the House Finance and Appropriations Committee (L# 2171-5)

1990	715602	Laboratory Services	\$	402,295	\$	408,560	69771
2190	715604	Central Support	\$	8,594,348	\$	8,555,680	69772
		Indirect					
4A10	715640	Operating Expenses	\$	2,304,267	\$	2,093,039	69773
<u>4D50</u>	<u>715618</u>	<u>Recycled State</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>50,000</u>	69774
		<u>Materials</u>					
TOTAL GSF		General Services					69775
Fund Group			\$	11,300,910	\$	11,057,279	69776
						<u>11,107,279</u>	
Federal Special Revenue		Fund Group					69777
3530	715612	Public Water Supply	\$	2,941,282	\$	2,941,282	69778
3540	715614	Hazardous Waste	\$	4,193,000	\$	4,193,000	69779
		Management - Federal					
3570	715619	Air Pollution Control	\$	6,310,203	\$	6,310,203	69780
		- Federal					
3620	715605	Underground Injection	\$	111,874	\$	111,874	69781
		Control - Federal					
3BU0	715684	Water Quality	\$	8,100,000	\$	6,785,000	69782
		Protection					
3CS0	715688	Federal NRD	\$	100,000	\$	100,000	69783
		Settlements					
3F20	715630	Revolving Loan Fund -	\$	907,543	\$	907,543	69784
		Operating					
3F30	715632	Federally Supported	\$	3,344,746	\$	3,290,405	69785
		Cleanup and Response					
3F50	715641	Nonpoint Source	\$	6,265,000	\$	6,260,000	69786
		Pollution Management					
3T30	715669	Drinking Water State	\$	2,273,323	\$	2,273,323	69787
		Revolving Fund					
3V70	715606	Agencywide Grants	\$	600,000	\$	600,000	69788
TOTAL FED		Federal Special Revenue					69789
Fund Group			\$	35,146,971	\$	33,772,630	69790
State Special Revenue		Fund Group					69791

As Pending in the House Finance and Appropriations Committee (L# 2171-5)

4J00	715638	Underground Injection Control	\$	445,234	\$	445,571	69792
4K20	715648	Clean Air - Non Title V	\$	3,152,306	\$	2,906,267	69793
4K30	715649	Solid Waste	\$	16,742,551	\$	16,414,654	69794
4K40	715650	Surface Water Protection	\$	7,642,625	\$	6,672,246	69795
4K40	715686	Environmental Lab Service	\$	2,096,007	\$	2,096,007	69796
4K50	715651	Drinking Water Protection	\$	7,410,118	\$	7,405,428	69797
4P50	715654	Cozart Landfill	\$	100,000	\$	100,000	69798
4R50	715656	Scrap Tire Management	\$	1,368,610	\$	1,376,742	69799
4R90	715658	Voluntary Action Program	\$	999,503	\$	997,425	69800
4T30	715659	Clean Air - Title V Permit Program	\$	16,349,471	\$	16,241,822	69801
4U70	715660	Construction and Demolition Debris	\$	425,913	\$	433,591	69802
5000	715608	Immediate Removal Special Account	\$	633,832	\$	634,033	69803
5030	715621	Hazardous Waste Facility Management	\$	10,241,107	\$	9,789,620	69804
5050	715623	Hazardous Waste Cleanup	\$	12,511,234	\$	12,331,272	69805
5050	715674	Clean Ohio Environmental Review	\$	108,104	\$	108,104	69806
<u>5320</u>	<u>715646</u>	<u>Recycling and Litter Control</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>4,911,575</u>	69807
5410	715670	Site Specific Cleanup	\$	2,048,101	\$	2,048,101	69808
5420	715671	Risk Management Reporting	\$	132,636	\$	132,636	69809
<u>5860</u>	<u>715637</u>	<u>Scrap Tire Market</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>1,497,645</u>	69810

		<u>Development</u>					
5920	715627	Anti Tampering	\$	2,285	\$	2,285	69811
		Settlement					
5BC0	715617	Clean Ohio	\$	611,455	\$	611,455	69812
5BC0	715622	Local Air Pollution	\$	2,297,980	\$	2,297,980	69813
		Control					
5BC0	715624	Surface Water	\$	8,970,181	\$	9,114,974	69814
5BC0	715672	Air Pollution Control	\$	4,438,629	\$	4,534,758	69815
5BC0	715673	Drinking and Ground	\$	4,317,527	\$	4,323,521	69816
		Water					
5BC0	715675	Hazardous Waste	\$	95,266	\$	95,266	69817
5BC0	715676	Assistance and	\$	640,179	\$	645,069	69818
		Prevention					
5BC0	715677	Laboratory	\$	939,717	\$	958,586	69819
5BC0	715678	Corrective Actions	\$	31,765	\$	105,423	69820
5BC0	715687	Areawide Planning	\$	450,000	\$	450,000	69821
		Agencies					
5BC0	715692	Administration	\$	8,562,476	\$	8,212,627	69822
5BT0	715679	C&DD Groundwater	\$	203,800	\$	203,800	69823
		Monitoring					
5BY0	715681	Auto Emissions Test	\$	13,029,952	\$	13,242,762	69824
					\$	<u>11,242,762</u>	
5CD0	715682	Clean Diesel School	\$	600,000	\$	600,000	69825
		Buses					
5H40	715664	Groundwater Support	\$	77,508	\$	78,212	69826
5N20	715613	Dredge and Fill	\$	29,250	\$	29,250	69827
5Y30	715685	Surface Water	\$	2,800,000	\$	2,800,000	69828
		Improvement					
6440	715631	ER Radiological Safety	\$	279,838	\$	279,966	69829
6600	715629	Infectious Waste	\$	91,573	\$	88,764	69830
		Management					
6760	715642	Water Pollution	\$	4,317,376	\$	4,321,605	69831
		Control Loan					

	Administration				
6780	715635	Air Toxic Release	\$ 138,669	\$ 138,669	69832
6790	715636	Emergency Planning	\$ 2,623,192	\$ 2,623,252	69833
6960	715643	Air Pollution Control	\$ 1,100,000	\$ 1,100,000	69834
	Administration				
6990	715644	Water Pollution	\$ 220,000	\$ 220,000	69835
	Control Administration				
6A10	715645	Environmental	\$ 1,488,260	\$ 1,488,718	69836
	Education				
TOTAL SSR	State Special Revenue		\$ 140,764,230	\$ 138,700,461	69837
Fund Group				<u>143,109,681</u>	
Clean Ohio	Conservation Fund Group				69838
5S10	715607	Clean Ohio -	\$ 284,083	\$ 284,124	69839
	Operating				
TOTAL CLF	Clean Ohio Conservation		\$ 284,083	\$ 284,124	69840
Fund Group					
TOTAL ALL BUDGET FUND GROUPS			\$ 187,496,194	\$ 183,814,494	69841
				<u>188,273,714</u>	
AUTOMOBILE EMISSIONS TESTING PROGRAM OPERATION AND OVERSIGHT					69842
On July 1 of each fiscal year, or as soon as possible					69843
thereafter, the Director of Budget and Management may transfer up					69844
to \$13,029,952 in cash in fiscal year 2012, and up to \$13,242,762					69845
<u>11,242,762</u> in cash in fiscal year 2013 from the General Revenue					69846
Fund to the Auto Emissions Test Fund (Fund 5BY0) for the operation					69847
and oversight of the auto emissions testing program.					69848
AREAWIDE PLANNING AGENCIES					69849
The Director of Environmental Protection Agency may award					69850
grants from appropriation item 715687, Areawide Planning Agencies,					69851
to areawide planning agencies engaged in areawide water quality					69852
management and planning activities in accordance with Section 208					69853
of the "Federal Clean Water Act," 33 U.S.C. 1288.					69854

CORRECTIVE CASH TRANSFERS				69855
On July 1, 2011, or as soon as possible thereafter, the				69856
Director of Budget and Management shall transfer \$376,891.85 in				69857
cash that was mistakenly deposited in the Clean Air Non Title V				69858
Fund (Fund 4K20) to the Clean Air Title V Permit Fund (Fund 4T30).				69859
On July 1, 2011, or as soon as possible thereafter, the				69860
Director of Budget and Management shall transfer \$133,026.63 in				69861
cash that was mistakenly deposited in the Scrap Tire Management				69862
Fund (Fund 4R50) to the Site Specific Cleanup Fund (Fund 5410).				69863
Sec. 291.10. DOH DEPARTMENT OF HEALTH				69864
General Revenue Fund				69865
GRF 440412	Cancer Incidence	\$ 600,000	\$ 600,000	69866
	Surveillance System			
GRF 440413	Local Health	\$ 2,302,788	\$ 2,303,061	69867
	Department Support			
GRF 440416	Mothers and Children	\$ 4,227,842	\$ 4,228,015	69868
	Safety Net Services			
GRF 440418	Immunizations	\$ 6,430,538	8,930,829	69869
			<u>8,825,829</u>	
GRF 440431	Free Clinics Safety	\$ 437,326	\$ 437,326	69870
	Net Services			
GRF 440438	Breast and Cervical	\$ 823,217	\$ 823,217	69871
	Cancer Screening			
GRF 440444	AIDS Prevention and	\$ 5,842,315	\$ 5,842,315	69872
	Treatment			
GRF 440451	Public Health	\$ 3,654,348	\$ 3,655,449	69873
	Laboratory			
GRF 440452	Child and Family	\$ 630,390	\$ 630,444	69874
	Health Services Match			
GRF 440453	Health Care Quality	\$ 8,170,694	\$ 8,174,361	69875
	Assurance			

GRF 440454	Local Environmental Health	\$	1,310,141	\$	1,310,362 <u>1,194,634</u>	69876
GRF 440459	Help Me Grow	\$	33,673,545	\$	33,673,987	69877
GRF 440465	Federally Qualified Health Centers	\$	458,688	\$	2,686,688	69878
GRF 440467	Access to Dental Care	\$	540,484	\$	540,484	69879
GRF 440468	Chronic Disease and Injury Prevention	\$	2,577,251	\$	2,577,251 <u>2,447,251</u>	69880
GRF 440472	Alcohol Testing	\$	550,000	\$	1,100,000	69881
GRF 440505	Medically Handicapped Children	\$	7,512,451	\$	7,512,451	69882
GRF 440507	Targeted Health Care Services Over 21	\$	1,045,414	\$	1,045,414	69883
TOTAL GRF General Revenue Fund		\$	80,787,432	\$	86,071,654 <u>85,720,926</u>	69884
State Highway Safety Fund Group						69885
4T40 440603	Child Highway Safety	\$	233,894	\$	233,894	69886
TOTAL HSF State Highway Safety Fund Group						69887
		\$	233,894	\$	233,894	69888
General Services Fund Group						69889
1420 440646	Agency Health Services	\$	8,825,788	\$	8,826,146	69890
2110 440613	Central Support Indirect Costs	\$	28,900,000	\$	29,000,000	69891
4730 440622	Lab Operating Expenses	\$	5,000,000	\$	5,000,000	69892
5HB0 440470	Breast and Cervical Cancer Screening	\$	1,000,000	\$	0	69893
6830 440633	Employee Assistance Program	\$	1,100,000	\$	1,100,000	69894
6980 440634	Nurse Aide Training	\$	99,239	\$	99,265	69895
TOTAL GSF General Services						69896

Fund Group		\$	44,925,027	\$	44,025,411	69897
Federal Special Revenue Fund Group						69898
3200 440601	Maternal Child Health	\$	27,068,886	\$	27,068,886	69899
	Block Grant					
3870 440602	Preventive Health	\$	7,826,659	\$	7,826,659	69900
	Block Grant					
3890 440604	Women, Infants, and	\$	308,672,689	\$	308,672,689	69901
	Children					
3910 440606	Medicaid/Medicare	\$	29,625,467	\$	29,257,457	69902
3920 440618	Federal Public Health	\$	137,976,988	\$	137,976,988	69903
	Programs					
TOTAL FED	Federal Special Revenue					69904
Fund Group		\$	511,170,689	\$	510,802,679	69905
State Special Revenue Fund Group						69906
4700 440647	Fee Supported	\$	24,503,065	\$	24,513,973	69907
	Programs				<u>24,263,973</u>	
4710 440619	Certificate of Need	\$	878,145	\$	878,433	69908
4770 440627	Medically Handicapped	\$	3,692,704	\$	3,692,703	69909
	Children Audit					
4D60 440608	Genetics Services	\$	3,310,953	\$	3,311,039	69910
4F90 440610	Sickle Cell Disease	\$	1,032,754	\$	1,032,824	69911
	Control					
4G00 440636	Heirloom Birth	\$	5,000	\$	5,000	69912
	Certificate					
4G00 440637	Birth Certificate	\$	5,000	\$	5,000	69913
	Surcharge					
4L30 440609	Miscellaneous	\$	3,333,164	\$	3,333,164	69914
	Expenses					
4P40 440628	Ohio Physician Loan	\$	476,870	\$	476,870	69915
	Repayment					
4V60 440641	Save Our Sight	\$	2,255,760	\$	2,255,789	69916
5B50 440616	Quality, Monitoring,	\$	878,638	\$	878,997	69917

		and Inspection					
5C00	440615	Alcohol Testing and Permit	\$	551,018	\$	0	69918
5CN0	440645	Choose Life	\$	75,000	\$	75,000	69919
5D60	440620	Second Chance Trust	\$	1,151,815	\$	1,151,902	69920
5ED0	440651	Smoke Free Indoor Air	\$	190,452	\$	190,452	69921
5G40	440639	Adoption Services	\$	20,000	\$	20,000	69922
5L10	440623	Nursing Facility Technical Assistance Program	\$	687,500	\$	687,528	69923
5Z70	440624	Ohio Dentist Loan Repayment	\$	140,000	\$	140,000	69924
6100	440626	Radiation Emergency Response	\$	930,525	\$	930,576	69925
6660	440607	Medically Handicapped Children - County Assessments	\$	19,738,286	\$	19,739,617	69926
TOTAL SSR State Special Revenue							69927
Fund Group			\$	63,856,649	\$	63,318,867 <u>63,068,867</u>	69928
Holding Account Redistribution Fund Group							69929
R014	440631	Vital Statistics	\$	44,986	\$	44,986	69930
R048	440625	Refunds, Grants Reconciliation, and Audit Settlements	\$	20,000	\$	20,000	69931
TOTAL 090 Holding Account							69932
Redistribution Fund Group			\$	64,986	\$	64,986	69933
Tobacco Master Settlement Agreement Fund Group							69934
5BX0	440656	Tobacco Use Prevention	\$	1,000,000	\$	1,000,000	69935
TOTAL TSF Tobacco Master Settlement Agreement Fund Group			\$	1,000,000	\$	1,000,000	69936

TOTAL ALL BUDGET FUND GROUPS	\$	702,038,677	\$	705,517,491	69937
				<u>704,916,763</u>	

Sec. 307.10. INS DEPARTMENT OF INSURANCE 69939

Federal Special Revenue Fund Group 69940

3EV0 820610 Health Insurance	\$	1,000,000	\$	1,000,000	69941
Premium Review					

3EW0 820611 Health Exchange	\$	1,000,000	\$	1,000,000	69942
Planning					

3U50 820602 OSHIIP Operating	\$	2,270,726	\$	2,270,725	69943
Grant					

TOTAL FED Federal Special 69944

Revenue Fund Group	\$	4,270,726	\$	4,270,725	69945
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State Special Revenue Fund Group 69946

5540 820601 Operating Expenses -	\$	190,000	\$	180,000	69947
OSHIIP					

5540 820606 Operating Expenses	\$	22,745,538	\$	22,288,550	69948
				<u>22,931,817</u>	

5550 820605 Examination	\$	9,065,684	\$	8,934,065	69949
				<u>8,184,065</u>	

TOTAL SSR State Special Revenue 69950

Fund Group	\$	32,001,222	\$	31,402,615	69951
				<u>31,295,882</u>	

TOTAL ALL BUDGET FUND GROUPS	\$	36,271,948	\$	35,673,340	69952
				<u>35,566,607</u>	

MARKET CONDUCT EXAMINATION 69953

When conducting a market conduct examination of any insurer 69954
 doing business in this state, the Superintendent of Insurance may 69955
 assess the costs of the examination against the insurer. The 69956
 superintendent may enter into consent agreements to impose 69957
 administrative assessments or fines for conduct discovered that 69958
 may be violations of statutes or rules administered by the 69959

superintendent. All costs, assessments, or fines collected shall 69960
 be deposited to the credit of the Department of Insurance 69961
 Operating Fund (Fund 5540). 69962

EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES 69963

The Director of Budget and Management, at the request of the 69964
 Superintendent of Insurance, may transfer funds from the 69965
 Department of Insurance Operating Fund (Fund 5540), established by 69966
 section 3901.021 of the Revised Code, to the Superintendent's 69967
 Examination Fund (Fund 5550), established by section 3901.071 of 69968
 the Revised Code, only for expenses incurred in examining domestic 69969
 fraternal benefit societies as required by section 3921.28 of the 69970
 Revised Code. 69971

TRANSFER FROM FUND 5540 TO GENERAL REVENUE FUND 69972

Not later than the thirty-first day of July each fiscal year, 69973
 the Director of Budget and Management shall transfer \$5,000,000 69974
 from the Department of Insurance Operating Fund (Fund 5540) to the 69975
 General Revenue Fund. 69976

Sec. 309.10. JFS DEPARTMENT OF JOB AND FAMILY SERVICES 69977

General Revenue Fund 69978

GRF 600321 Program Support 69979
Services

State	\$	34,801,760	\$	31,932,117	69980
				<u>31,612,796</u>	

Federal	\$	9,322,222	\$	9,207,441	69981
				<u>9,115,366</u>	

<u>Program Support</u>	\$	44,123,982	\$	41,139,558	69982
<u>Services Total</u>				<u>40,728,162</u>	

GRF 600410	TANF State/ <u>Maintenance</u>	\$	151,386,934	\$	151,386,934	69983
	<u>of Effort</u>					

GRF 600413	Child Care Match	\$	84,732,730	\$	84,732,730	69984
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	<u>State</u> /Maintenance of				
	Effort				
GRF 600416	Computer <u>Information</u>				69985
	<u>Technology</u> Projects				
	State	\$	67,955,340	\$	69,263,506 <u>68,570,871</u>
	Federal	\$	13,105,167	\$	12,937,222 <u>12,807,850</u>
	Computer <u>Information</u>	\$	81,060,507	\$	82,200,728 <u>81,378,721</u>
	<u>Technology</u> Projects				
	Total				
GRF 600417	Medicaid Provider	\$	1,312,992	\$	1,312,992 <u>1,299,862</u>
	Audits				
GRF 600420	Child Support	\$	6,163,534	\$	6,065,588 <u>6,004,932</u>
	<u>Administration</u> Programs				
GRF 600421	Office of Family	\$	3,768,929	\$	3,757,493 <u>3,719,918</u>
	<u>Stability</u> Assistance				
	<u>Programs</u>				
GRF 600423	Office of Children and	\$	5,123,406	\$	4,978,756
	Families <u>and</u> Children				
	<u>Programs</u>				
GRF 600425	Office of Ohio Health				69993
	<u>Plans</u> <u>Care</u> Programs				
	State	\$	13,149,582	\$	15,740,987 <u>15,583,577</u>
	Federal	\$	12,556,921	\$	12,286,234 <u>12,163,372</u>
	Office of Ohio Health	\$	25,706,503	\$	28,027,221 <u>27,746,949</u>
	<u>Plans</u> <u>Care</u> Programs				
	Total				
GRF 600502	Administration <u>Child</u>	\$	23,814,103	\$	23,814,103
	<u>Support</u> - Local				
GRF 600511	Disability Financial	\$	26,599,666	\$	27,108,734

	Assistance				
GRF 600521	Entitlement	\$ 72,200,721	\$ 72,200,721	69999	
	Administration Family				
	<u>Assistance</u> - Local				
GRF 600523	Family and Children and	\$ 53,605,323	\$ 53,105,323	70000	
	Families Services	<u>52,605,323</u>	<u>54,105,323</u>		
GRF 600525	Health Care/Medicaid			70001	
	State	\$ 4,313,761,372	\$ 4,689,051,017	70002	
			<u>4,689,701,017</u>		
	Federal	\$ 7,530,008,024	\$ 8,429,762,527	70003	
			<u>8,430,897,261</u>		
	Health Care Total	\$11,843,769,396	\$13,118,813,544	70004	
			<u>13,120,598,278</u>		
GRF 600526	Medicare Part D	\$ 277,996,490	\$ 296,964,743	70005	
GRF 600528	Adoption Services			70006	
	State	\$ 29,257,932	\$ 29,257,932	70007	
	Federal	\$ 41,085,169	\$ 41,085,169	70008	
	Adoption Services Total	\$ 70,343,101	\$ 70,343,101	70009	
GRF 600533	Child, Family, and	\$ 13,500,000	\$ 13,500,000	70010	
	Adult Community &				
	Protective Services				
GRF 600534	Adult Protective	\$ 366,003	\$ 366,003	70011	
	Services				
GRF 600535	Early Care and	\$ 123,596,474	\$ 123,596,474	70012	
	Education				
GRF 600537	Children's Hospital	\$ 6,000,000	\$ 6,000,000	70013	
GRF 600540	Second Harvest Food	\$ 4,000,000	\$ 4,000,000	70014	
	Banks				
GRF 600541	Kinship Permanency	\$ 2,500,000	\$ 3,500,000	70015	
	Incentive Program				
TOTAL GRF General Revenue Fund				70016	
	State	\$ 5,315,593,291	\$ 5,711,636,153	70017	
		<u>5,314,593,291</u>	<u>5,712,005,426</u>		

	Federal		\$ 7,606,077,503	\$ 8,505,278,593	70018
				<u>8,506,069,018</u>	
	GRF Total		\$ 12,921,670,794	\$ 14,216,914,746	70019
			<u>12,920,670,794</u>	<u>14,218,074,444</u>	
General Services Fund Group					70020
4A80	600658	Public Assistance Activities	\$ 34,000,000	\$ 34,000,000	70021
5C90	600671	Medicaid Program Support	\$ 85,800,878	\$ 82,839,266 0	70022
5DL0	600639	Medicaid Revenue and Collections Health Care/Medicaid Support - Recoveries	\$ 89,256,974	\$ 84,156,974 <u>166,996,240</u>	70023
5DM0	600633	Administration & Operating	\$ 20,392,173	\$ 19,858,928 <u>19,660,339</u>	70024
5FX0	600638	Medicaid Payment Withholding	\$ 5,000,000	\$ 6,000,000	70025
5HL0	600602	State and County Shared services	\$ 3,020,000	\$ 3,020,000	70026
5P50	600692	Prescription Drug Rebate—State Health Care/Medicaid Support - Drug Rebates	\$ 220,600,000	\$ 242,600,000	70027
6130	600645	Training Activities	\$ 500,000	\$ 500,000	70028
TOTAL GSF General Services Fund Group					70029
			\$ 458,570,025	\$ 472,975,168 <u>472,776,579</u>	70030
Federal Special Revenue Fund Group					70031
3270	600606	Child Welfare	\$ 29,769,865	\$ 29,769,866	70032
<u>3310</u>	<u>600615</u>	<u>Veterans Programs</u>	<u>\$ 0</u>	<u>\$ 8,000,000</u>	70033
<u>3310</u>	<u>600624</u>	<u>Employment Services Programs</u>	<u>\$ 0</u>	<u>\$ 33,943,023</u>	70034

As Pending in the House Finance and Appropriations Committee (L# 2171-5)

3310	600686	Federal Operating	\$	49,128,140	\$	48,203,023	70035
		<u>Workforce Programs</u>				<u>6,260,000</u>	
3840	600610	Food Assistance and	\$	180,381,394	\$	180,381,394	70036
		State Administration					
		<u>Programs</u>					
3850	600614	Refugee Services	\$	11,582,440	\$	12,564,952	70037
3950	600616	Special	\$	2,259,264	\$	2,259,264	70038
		Activities/Child and					
		Family Services					
		<u>Federal Discretionary</u>					
		<u>Grants</u>					
3960	600620	Social Services Block	\$	64,999,999	\$	64,999,998	70039
		Grant					
3970	600626	Child Support =	\$	255,812,837	\$	255,813,528	70040
		<u>Federal</u>					
3980	600627	Adoption Maintenance/ Administration Program	\$	352,183,862	\$	352,184,253	70041
		<u>- Federal</u>				<u>174,178,779</u>	
3A20	600641	Emergency Food	\$	5,000,000	\$	5,000,000	70042
		Distribution					
3AW0	600675	Faith Based	\$	544,140	\$	544,140	70043
		Initiatives					
3D30	600648	Children's Trust Fund	\$	2,040,524	\$	2,040,524	70044
		Federal					
3ER0	600603	Health Information	\$	411,661,286	\$	416,395,286	70045
		Technology					
3F00	600623	Health Care Federal	\$	2,637,061,505	\$	2,720,724,869	70046
3F00	600650	Hospital Care	\$	372,784,046	\$	380,645,627	70047
		Assurance Match =					
		<u>Federal</u>					
3FA0	600680	Ohio Health Care	\$	9,405,000	\$	20,000,000	70048
		Grants <u>- Federal</u>					
3G50	600655	Interagency	\$	1,621,305,787	\$	1,380,391,478	70049

		Reimbursement				
3H70	600617	Child Care Federal	\$	208,290,036	\$	204,813,731 70050
3N00	600628	IV-E Foster Care	\$	133,963,142	\$	133,963,142 70051
		<u>Maintenance Program -</u>				<u>311,968,616</u>
		<u>Federal</u>				
3S50	600622	Child Support Projects	\$	534,050	\$	534,050 70052
3V00	600688	Workforce Investment	\$	176,496,250	\$	172,805,562 70053
		<u>Act Programs</u>				
3V40	600678	Federal Unemployment	\$	188,680,096	\$	186,723,415 70054
		Programs				
3V40	600679	Unemployment	\$	4,166,988	\$	4,068,758 70055
		<u>Compensation UC Review</u>				
		Commission - Federal				
3V60	600689	TANF Block Grant	\$	727,968,260	\$	727,968,260 70056
TOTAL FED		Federal Special Revenue				70057
Fund Group			\$	7,446,018,911	\$	7,302,795,120 70058
State Special Revenue		Fund Group				70059
1980	600647	Children's Trust Fund	\$	5,873,637	\$	5,873,848 70060
4A90	600607	Unemployment	\$	21,924,998	\$	21,424,998 70061
		Compensation				
		Administration Fund				
4A90	600694	Unemployment	\$	2,173,167	\$	2,117,031 70062
		<u>Compensation UC Review</u>				
		Commission - <u>SAF</u>				
4E30	600605	Nursing Home	\$	2,878,320	\$	2,878,319 70063
		<u>Assessments Resident</u>				
		<u>Protection Fund</u>				
4E70	600604	Child and Family and	\$	400,000	\$	400,000 70064
		<u>Children Services</u>				
		Collections				
4F10	600609	<u>Family and Children</u>	\$	683,359	\$	683,549 70065
		and Family Services				
		Activities				

As Pending in the House Finance and Appropriations Committee (L# 2171-5)

4K10	600621	ICF/MR Bed Assessments <u>DDD Support -</u> <u>Franchise Fee</u>	\$	41,405,596	\$	44,372,874	70066
4Z10	600625	HealthCare Compliance	\$	11,551,076	\$	14,582,000	70067
5AJ0	600631	Money Follows the Person	\$	5,483,080	\$	4,733,080	70068
5DB0	600637	Military Injury Grants <u>Relief Subsidies</u>	\$	2,000,000	\$	2,000,000	70069
5DP0	600634	Adoption Assistance Loan	\$	500,000	\$	500,000	70070
5ES0	600630	Food <u>Bank</u> Assistance	\$	500,000	\$	500,000	70071
5GF0	600656	Medicaid Health <u>Care/Medicaid Support</u> - Hospital/ <u>UPL</u>	\$	436,000,000	\$	436,000,000	70072
5KC0	600682	Health Care Special <u>Activities Grants -</u> <u>State</u>	\$	10,000,000	\$	10,000,000	70073
<u>5KU0</u>	<u>600611</u>	<u>Unemployment</u> <u>Compensation Support -</u> <u>Other Sources</u>	<u>\$</u>	<u>2,000,000</u>	<u>\$</u>	<u>4,000,000</u>	70074
5R20	600608	Medicaid Nursing <u>Facilities Long-Term</u> <u>Care Support</u>	\$	402,489,308	\$	407,100,746	70075
5S30	600629	MR/DD Medicaid <u>Administration Health</u> <u>Care Program and</u> <u>Oversight DDD Support</u>	\$	9,252,738	\$	9,147,791	70076
5U30	600654	Health Care Services <u>Administration Program</u> <u>Support</u>	\$	24,400,000	\$	24,400,000 <u>24,156,000</u>	70077
5U60	600663	Children <u>Family</u> and <u>Family Children</u> Support	\$	4,000,000	\$	4,000,000	70078

6510 600649	Hospital Care	\$ 212,526,123	\$ 217,008,050	70079
	Assurance Program Fund			
TOTAL SSR State Special Revenue				70080
Fund Group		\$ 1,194,041,402	\$ 1,207,722,286	70081
		<u>1,196,041,402</u>	<u>1,211,478,286</u>	
Agency Fund Group				70082
1920 600646	<u>Child</u> Support	\$ 130,000,000	\$ 130,000,000	70083
	Intercept - Federal		<u>129,250,000</u>	
5830 600642	<u>Child</u> Support	\$ 16,000,000	\$ 16,000,000	70084
	Intercept - State		<u>14,000,000</u>	
5B60 600601	Food Assistance	\$ 2,000,000	\$ 2,000,000	70085
	Intercept		<u>1,000,000</u>	
TOTAL AGY Agency Fund Group		\$ 148,000,000	\$ 148,000,000	70086
			<u>144,250,000</u>	
Holding Account Redistribution Fund Group				70087
R012 600643	Refunds and Audit	\$ 2,200,000	\$ 2,200,000	70088
	Settlements			
R013 600644	Forgery Collections	\$ 10,000	\$ 10,000	70089
TOTAL 090 Holding Account		\$ 2,210,000	\$ 2,210,000	70090
Redistribution Fund Group				
TOTAL ALL BUDGET FUND GROUPS		\$ 22,170,511,132	\$ 23,350,617,320	70091
		<u>22,171,511,132</u>	<u>23,351,584,429</u>	

Sec. 309.30.30. REDUCTION IN MEDICAID PAYMENT RATES 70093

(A) As used in this section, "charge high trim point" means a 70094
 measure, excluding the measure established by paragraph (A)(6) of 70095
 rule 5101:3-2-07.9 of the Administrative Code, used to determine 70096
 whether a claim for a hospital inpatient service qualifies for a 70097
 cost outlier payment under the Medicaid program. 70098

(B) For fiscal year 2012 and fiscal year 2013, the Director 70099
 of Job and Family Services shall implement purchasing strategies 70100
 and rate reductions for hospital and other Medicaid-covered 70101

services, as determined by the Director, that result in payment 70102
rates for those services being at least two per cent less than the 70103
respective payment rates for fiscal year 2011. In implementing the 70104
purchasing strategies and rate reductions, the Director shall do 70105
the following: 70106

(1) Notwithstanding the section of ~~this act~~ Am. Sub. H.B. 153 70107
of the 129th General Assembly titled "CONTINUATION OF MEDICAID 70108
RATES FOR HOSPITAL INPATIENT AND OUTPATIENT SERVICES," modernize 70109
hospital inpatient and outpatient reimbursement methodologies by 70110
doing the following: 70111

(a) Modifying the inpatient hospital capital reimbursement 70112
methodology; 70113

(b) Establishing new diagnosis-related groups in a 70114
cost-neutral manner; 70115

(c) For hospital discharges that occur during the period 70116
beginning October 1, 2011, and ending January 1, 2012, modifying 70117
charge high trim points, as in effect on January 1, 2011, by a 70118
factor of 13.6%; 70119

(d) For hospital discharges that occur during the period 70120
beginning January 1, 2012, and ending on the effective date of the 70121
first of the new diagnosis-related groups established under 70122
division (B)(1)(b) of this section, modifying charge high trim 70123
points, as in effect on October 1, 2011, by a factor of 9.72%; 70124

(e) Implementing other changes the Director considers 70125
appropriate. 70126

(2) Establish selective contracting and prior authorization 70127
requirements for types of medical assistance the Director 70128
identifies. 70129

(C) The Director shall adopt rules under section 5111.02 and 70130
5111.85 of the Revised Code as necessary to implement this 70131

section. The rules adopted to implement divisions (B)(1)(a), (b), and (e) of this section shall include quality factors and quality-based incentive payments.

(D) This section does not apply to nursing facility and intermediate care facility for the mentally retarded services provided under the Medicaid program.

Sec. 309.30.33. HOSPITAL INPATIENT AND OUTPATIENT SUPPLEMENTAL UPPER PAYMENT LIMIT PROGRAM; MEDICAID MANAGED CARE HOSPITAL INCENTIVE PAYMENT PROGRAM

(A) As used in this section:

(1) "Hospital" has the same meaning as in section 5112.40 of the Revised Code.

(2) "Hospital Assessment Fund" means the fund created under section 5112.45 of the Revised Code.

(3) "Medicaid managed care organization" means an entity under contract pursuant to section 5111.17 of the Revised Code to provide or arrange services for Medicaid recipients who are required or permitted to participate in the Medicaid care management system.

(B) The Department of Job and Family Services shall submit to the United States Secretary of Health and Human Services a Medicaid state plan amendment to do both of the following:

(1) Continue the Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program that was established pursuant to Section 309.30.17 of Am. Sub. H.B. 1 of the 128th General Assembly, with any modifications necessary to implement the program as described under division (D) of this section;

(2) Create the Medicaid Managed Care Hospital Incentive Payment Program, as described under division (E) of this section.

(C) Of the amounts deposited into the Hospital Assessment Fund in fiscal year 2012 and fiscal year 2013: 70161
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(1) Up to \$432,432,725 (state and federal) in fiscal year 2012 and up to \$415,162,388 (state and federal) in fiscal year 2013 shall be used for the Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program; 70163
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(2) Up to \$162,000,000 (state and federal) in each fiscal year shall be used for the Medicaid Managed Care Hospital Incentive Payment Program; 70167
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(3) Up to \$176,021,111 (state and federal) in fiscal year 2012 and up to \$195,158,394 (state and federal) in fiscal year 2013 shall be used for the program authorized by the section of ~~this act~~ Am. Sub. H.B. 153 of the 129th General Assembly titled "CONTINUATION OF MEDICAID RATES FOR HOSPITAL INPATIENT AND OUTPATIENT SERVICES." 70170
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(D)(1) If the Medicaid state plan amendment submitted under division (B)(1) of this section is approved, the Department shall implement the Hospital Inpatient and Outpatient Supplemental Upper Payment Limit Program during fiscal year 2012 and fiscal year 2013. Under the Program, subject to division (D)(2) of this section, supplemental Medicaid payments shall be made to hospitals for Medicaid-covered inpatient and outpatient services. The Department shall make the payments through amounts that are made available for the Program under division (C) of this section and any federal financial participation available for the Program. 70176
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(2) The Department shall take all actions necessary to cease implementation of the Program if the United States Secretary determines that the assessment imposed under section 5112.41 of the Revised Code is an impermissible healthcare-related tax under section 1903(w) of the "Social Security Act," 105 Stat. 1793 (1991), 42 U.S.C. 1396b(w), as amended. 70186
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(E)(1) If the Medicaid state plan amendment submitted under 70192
division (B)(2) of this section is approved, the Department shall 70193
implement the Medicaid Managed Care Hospital Incentive Payment 70194
Program. The purpose of the Program is to increase access to 70195
hospital services for Medicaid recipients who are enrolled in 70196
Medicaid managed care organizations. 70197

Under the Program, subject to division (E)(3) of this 70198
section, funds shall be provided to Medicaid managed care 70199
organizations, which shall use the funds to increase payments to 70200
hospitals for providing services to Medicaid recipients who are 70201
enrolled in the organizations. The Department shall provide the 70202
funds through amounts that are made available for the Program 70203
under division (C) of this section and any federal financial 70204
participation available for the Program. 70205

(2) Not later than July 1, 2012, the Department shall select 70206
an actuary to conduct a study of the contracted reimbursement 70207
rates between Medicaid managed care organizations and hospitals. 70208
The actuary shall determine if a reduction in the capitation rates 70209
paid to Medicaid managed care organizations in fiscal year 2013 is 70210
appropriate as a result of the contracted reimbursement rates 70211
between the organizations and hospitals. The actuary shall notify 70212
the Department of its determination. 70213

If the actuary determines that a reduction in the capitation 70214
rates paid to Medicaid managed care organizations in fiscal year 70215
2013 will not achieve \$22 million in state savings in fiscal year 70216
2013, the state shall receive the difference between what the 70217
actuary determines the state will save and \$22 million. The 70218
Department, in consultation with the Ohio Association of Health 70219
Plans and the Ohio Hospital Association, shall establish a 70220
methodology under which the difference is paid equally by Medicaid 70221
managed care organizations and hospitals in this state. 70222

Notwithstanding anything to the contrary specified in 70223

division (E)(3)(b) or (c) of this section, the Medicaid managed 70224
care organizations and hospitals shall pay the amounts determined 70225
under the methodology, unless the Department waives the 70226
requirement to make the payments. The requirement may be waived if 70227
spending for the Medicaid program in fiscal year 2013 is less than 70228
the amount that is budgeted for that fiscal year. If payments are 70229
made, the amount received by the Department shall be deposited 70230
into the state treasury to the credit of the Health Care 70231
Compliance Fund created under section ~~5111.171~~ 5111.946 of the 70232
Revised Code. 70233

(3)(a) The Department shall not provide funds to Medicaid 70234
managed care organizations under the Program unless an actuary 70235
selected by the Department certifies that the Program would not 70236
violate the actuarial soundness of the capitation rates paid to 70237
Medicaid managed care organizations. 70238

(b) The Department shall not implement the Program in a 70239
manner that causes a hospital to receive less money from the 70240
Hospital Assessment Fund than the hospital would have received if 70241
the Program were not implemented. 70242

(c) The Department shall not implement the Program in a 70243
manner that causes a Medicaid managed care organization to receive 70244
a lower capitation payment rate solely because funds are made 70245
available to the organization under the Program. 70246

(d) The Department shall take all necessary actions to cease 70247
implementation of the Program if the United States Secretary 70248
determines that the assessment imposed under section 5112.41 of 70249
the Revised Code is an impermissible healthcare-related tax under 70250
section 1903(w) of the "Social Security Act," 105 Stat. 1793 70251
(1991), 42 U.S.C. 1396b(w), as amended. 70252

(F) The Director of Budget and Management may authorize 70253
additional expenditures from appropriation item 600623, Health 70254

Care Federal, appropriation item 600525, Health Care/Medicaid, and 70255
 appropriation item 600656, Medicaid-Hospital, in order to 70256
 implement the programs authorized by this section and to implement 70257
 the section of ~~this act~~ Am. Sub. H.B. 153 of the 129th General 70258
Assembly titled "CONTINUATION OF MEDICAID RATES FOR HOSPITAL 70259
 INPATIENT AND OUTPATIENT SERVICES." Any amounts authorized are 70260
 hereby appropriated. 70261

(G) Nothing in this section reduces payments to children's 70262
 hospitals authorized under the section of ~~this act~~ Am. Sub. H.B. 70263
153 of the 129th General Assembly titled "CHILDREN'S HOSPITALS 70264
 SUPPLEMENTAL FUNDING." 70265

Sec. 309.35.73. HEALTHCARE COMPLIANCE APPROPRIATION 70266

Notwithstanding the provisions of section ~~5111.171~~ 5111.946 70267
 of the Revised Code specifying the uses of the ~~HealthCare~~ Health 70268
Care Compliance Fund, appropriations in appropriation item 600625, 70269
 HealthCare Compliance, may be used for expenses incurred in 70270
 implementation or operation of Health Home programs, contracts for 70271
consultants regarding Medicaid, and for the creation, 70272
 modification, or replacement of any federally funded Medicaid 70273
 healthcare systems in fiscal year 2012 and fiscal year 2013. 70274

Sec. 315.10. JSC THE JUDICIARY/SUPREME COURT 70275

General Revenue Fund 70276

GRF	005321	Operating Expenses -	\$	133,704,620	\$	132,565,410	70277
		Judiciary/Supreme		<u>132,347,507</u>		<u>133,922,523</u>	
		Court					

GRF	005406	Law-Related Education	\$	236,172	\$	236,172	70278
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GRF	005409	Ohio Courts	\$	2,150,000	\$	2,150,000	70279
		Technology Initiative					

TOTAL GRF	General Revenue Fund	\$	136,090,792	\$	134,951,582	70280
			<u>134,733,679</u>		<u>136,308,695</u>	

General Services Fund Group				70281
6720 005601 Continuing Judicial	\$	172,142	\$ 169,420	70282
Education				
TOTAL GSF General Services Fund	\$	172,142	\$ 169,420	70283
Group				
Federal Special Revenue Fund Group				70284
3J00 005603 Federal Grants	\$	1,653,317	\$ 1,605,717	70285
TOTAL FED Federal Special Revenue	\$	1,653,317	\$ 1,605,717	70286
Fund Group				
State Special Revenue Fund Group				70287
4C80 005605 Attorney Services	\$	3,718,328	\$ 3,695,192	70288
5HT0 005617 Court Interpreter	\$	39,000	\$ 39,000	70289
Certification				
5T80 005609 Grants and Awards	\$	50,000	\$ 50,000	70290
6A80 005606 Supreme Court	\$	1,223,340	\$ 1,205,056	70291
Admissions				
TOTAL SSR State Special Revenue	\$	5,030,668	\$ 4,989,248	70292
Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	142,946,919	\$ 141,715,967	70293
		<u>141,589,806</u>	<u>143,073,080</u>	
OPERATING EXPENSES - JUDICIARY/SUPREME COURT				70294
Of the foregoing appropriation item 005321, Operating				70295
Expenses - Judiciary/Supreme Court, up to \$206,770 in each fiscal				70296
year may be used to support the functions of the State Criminal				70297
Sentencing Council.				70298
LAW-RELATED EDUCATION				70299
The foregoing appropriation item 005406, Law-Related				70300
Education, shall be distributed directly to the Ohio Center for				70301
Law-Related Education for the purposes of providing continuing				70302
citizenship education activities to primary and secondary				70303
students, expanding delinquency prevention programs, increasing				70304

activities for at-risk youth, and accessing additional public and 70305
private money for new programs. 70306

OHIO COURTS TECHNOLOGY INITIATIVE 70307

The foregoing appropriation item 005409, Ohio Courts 70308
Technology Initiative, shall be used to fund an initiative by the 70309
Supreme Court to facilitate the exchange of information and 70310
warehousing of data by and between Ohio courts and other justice 70311
system partners through the creation of an Ohio Courts Network, 70312
the delivery of technology services to courts throughout the 70313
state, including the provision of hardware, software, and the 70314
development and implementation of educational and training 70315
programs for judges and court personnel, and operation of the 70316
Commission on Technology and the Courts by the Supreme Court for 70317
the promulgation of statewide rules, policies, and uniform 70318
standards, and to aid in the orderly adoption and comprehensive 70319
use of technology in Ohio courts. 70320

CONTINUING JUDICIAL EDUCATION 70321

The Continuing Judicial Education Fund (Fund 6720) shall 70322
consist of fees paid by judges and court personnel for attending 70323
continuing education courses and other gifts and grants received 70324
for the purpose of continuing judicial education. The foregoing 70325
appropriation item 005601, Continuing Judicial Education, shall be 70326
used to pay expenses for continuing education courses for judges 70327
and court personnel. If it is determined by the Administrative 70328
Director of the Supreme Court that additional appropriations are 70329
necessary, the amounts are hereby appropriated. 70330

No money in Fund 6720 shall be transferred to any other fund 70331
by the Director of Budget and Management or the Controlling Board. 70332
Interest earned on money in Fund 6720 shall be credited to the 70333
fund. 70334

FEDERAL GRANTS 70335

The Federal Grants Fund (Fund 3J00) shall consist of grants and other moneys awarded to the Supreme Court (The Judiciary) by the United States Government or other entities that receive the moneys directly from the United States Government and distribute those moneys to the Supreme Court (The Judiciary). The foregoing appropriation item 005603, Federal Grants, shall be used in a manner consistent with the purpose of the grant or award. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 3J00 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. However, interest earned on money in Fund 3J00 shall be credited or transferred to the General Revenue Fund.

ATTORNEY SERVICES

The Attorney Services Fund (Fund 4C80), formerly known as the Attorney Registration Fund, shall consist of money received by the Supreme Court (The Judiciary) pursuant to the Rules for the Government of the Bar of Ohio. In addition to funding other activities considered appropriate by the Supreme Court, the foregoing appropriation item 005605, Attorney Services, may be used to compensate employees and to fund appropriate activities of the following offices established by the Supreme Court: the Office of Disciplinary Counsel, the Board of Commissioners on Grievances and Discipline, the Clients' Security Fund, and the Attorney Services Division. If it is determined by the Administrative Director of the Supreme Court that additional appropriations are necessary, the amounts are hereby appropriated.

No money in Fund 4C80 shall be transferred to any other fund by the Director of Budget and Management or the Controlling Board. Interest earned on money in Fund 4C80 shall be credited to the fund.

COURT INTERPRETER CERTIFICATION 70368

The Court Interpreter Certification Fund (Fund 5HT0) shall 70369
consist of money received by the Supreme Court (The Judiciary) 70370
pursuant to Rules 80 through 87 of the Rules of Superintendence 70371
for the Courts of Ohio. The foregoing appropriation item 005617, 70372
Court Interpreter Certification, shall be used to provide 70373
training, to provide the written examination, and to pay language 70374
experts to rate, or grade, the oral examinations of those applying 70375
to become certified court interpreters. If it is determined by the 70376
Administrative Director that additional appropriations are 70377
necessary, the amounts are hereby appropriated. 70378

No money in Fund 5HT0 shall be transferred to any other fund 70379
by the Director of Budget and Management or the Controlling Board. 70380
Interest earned on money in Fund 5HT0 shall be credited to the 70381
fund. 70382

GRANTS AND AWARDS 70383

The Grants and Awards Fund (Fund 5T80) shall consist of 70384
grants and other money awarded to the Supreme Court (The 70385
Judiciary) by the State Justice Institute, the Division of 70386
Criminal Justice Services, or other entities. The foregoing 70387
appropriation item 005609, Grants and Awards, shall be used in a 70388
manner consistent with the purpose of the grant or award. If it is 70389
determined by the Administrative Director of the Supreme Court 70390
that additional appropriations are necessary, the amounts are 70391
hereby appropriated. 70392

No money in Fund 5T80 shall be transferred to any other fund 70393
by the Director of Budget and Management or the Controlling Board. 70394
However, interest earned on money in Fund 5T80 shall be credited 70395
or transferred to the General Revenue Fund. 70396

SUPREME COURT ADMISSIONS 70397

The foregoing appropriation item 005606, Supreme Court 70398

Admissions, shall be used to compensate Supreme Court employees 70399
 who are primarily responsible for administering the attorney 70400
 admissions program under the Rules for the Government of the Bar 70401
 of Ohio, and to fund any other activities considered appropriate 70402
 by the court. Moneys shall be deposited into the Supreme Court 70403
 Admissions Fund (Fund 6A80) under the Supreme Court Rules for the 70404
 Government of the Bar of Ohio. If it is determined by the 70405
 Administrative Director of the Supreme Court that additional 70406
 appropriations are necessary, the amounts are hereby appropriated. 70407

No money in Fund 6A80 shall be transferred to any other fund 70408
 by the Director of Budget and Management or the Controlling Board. 70409
 Interest earned on money in Fund 6A80 shall be credited to the 70410
 fund. 70411

Sec. 327.10. LCO LIQUOR CONTROL COMMISSION 70412

State Special Revenue Fund Group 70413

5LP0 970601 Commission Operating \$ 0 \$ 754,146 70414
Expense

TOTAL SSR State Special Revenue \$ 0 \$ 754,146 70415

Fund Group

Liquor Control Fund Group 70416

7043 970321 Operating Expenses \$ 753,933 \$ ~~754,146~~ 0 70417

TOTAL LCF Liquor Control Fund Group \$ 753,933 \$ ~~754,146~~ 0 70418

TOTAL ALL BUDGET FUND GROUPS \$ 753,933 \$ 754,146 70419

Sec. 335.10. AMB OHIO MEDICAL TRANSPORTATION BOARD 70421

General Services Fund Group 70422

4K90 915604 Operating Expenses \$ 493,641 \$ ~~493,856~~ 0 70423

TOTAL GSF General Services 70424

Fund Group \$ 493,641 \$ ~~493,856~~ 0 70425

TOTAL ALL BUDGET FUND GROUPS \$ 493,641 \$ ~~493,856~~ 0 70426

Sec. 337.10. DMH DEPARTMENT OF MENTAL HEALTH				70428
General Revenue Fund				70429
GRF	332401	Forensic Services	\$ 3,244,251 \$ 3,244,251	70430
GRF	333321	Central Administration	\$ 16,000,000 \$ 16,000,000	70431
GRF	333402	Resident Trainees	\$ 450,000 \$ 450,000	70432
GRF	333403	Pre-Admission Screening Expenses	\$ 486,119 \$ 486,119 <u>286,119</u>	70433
GRF	333415	Lease-Rental Payments	\$ 18,394,250 \$ 19,907,900 <u>17,907,900</u>	70434
GRF	333416	Research Program Evaluation	\$ 421,724 \$ 421,998	70435
GRF	334412	Hospital Services	\$ 194,918,888 \$ 192,051,209 <u>191,051,209</u>	70436
GRF	334506	Court Costs	\$ 584,210 \$ 584,210	70437
GRF	335405	Family & Children First	\$ 1,386,000 \$ 1,386,000	70438
GRF	335419	Community Medication Subsidy	\$ 8,963,818 \$ 8,963,818	70439
GRF	335501	Mental Health Medicaid Match	\$ 186,400,000 \$ 0	70440
GRF	335505	Local Mental Health Systems of Care	\$ 49,963,776 \$ 59,087,955 <u>62,087,955</u>	70441
GRF	335506	Residential State Supplement	\$ 4,702,875 \$ 4,702,875	70442
TOTAL GRF General Revenue Fund			\$ 485,915,911 \$ 307,286,335 <u>307,086,335</u>	70443
General Services Fund Group				70444
1490	333609	Central Office Operating	\$ 1,343,190 \$ 1,343,190	70445
1490	334609	Hospital - Operating	\$ 28,190,000 \$ 28,190,000	70446

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		Expenses				
1500	334620	Special Education	\$	150,000	\$	150,000 70447
4P90	335604	Community Mental	\$	4,061,100	\$	250,000 70448
		Health Projects				
1510	336601	Office of Support	\$	129,770,770	\$	129,779,822 70449
		Services				<u>127,297,130</u>
TOTAL	GSF	General Services Fund	\$	163,515,060	\$	159,713,012 70450
Group						<u>157,230,320</u>
Federal	Special Revenue Fund	Group				70451
3240	333605	Medicaid/Medicare	\$	154,500	\$	154,500 70452
3A60	333608	Federal Miscellaneous	\$	140,000	\$	140,000 70453
3A70	333612	Social Services Block	\$	50,000	\$	50,000 70454
		Grant				
3A80	333613	Federal Grant -	\$	4,717,000	\$	4,717,000 70455
		Administration				
3A90	333614	Mental Health Block	\$	748,470	\$	748,470 70456
		Grant -				
		Administration				
3B10	333635	Community Medicaid	\$	13,691,682	\$	13,691,682 70457
		Expansion				
3240	334605	Medicaid/Medicare	\$	28,200,000	\$	28,200,000 70458
3A60	334608	Federal Miscellaneous	\$	200,000	\$	200,000 70459
3A80	334613	Federal Letter of	\$	200,000	\$	200,000 70460
		Credit				
3A60	335608	Federal Miscellaneous	\$	2,170,000	\$	2,170,000 70461
3A70	335612	Social Services Block	\$	8,400,000	\$	8,400,000 70462
		Grant				
3A80	335613	Federal Grant -	\$	2,500,000	\$	2,500,000 70463
		Community Mental				
		Health Board Subsidy				
3A90	335614	Mental Health Block	\$	14,200,000	\$	14,200,000 70464
		Grant				
3B10	335635	Community Medicaid	\$	346,200,000	\$	0 70465

Expansion			
TOTAL FED Federal Special Revenue	\$	421,571,652	\$ 75,371,652 70466
Fund Group			
State Special Revenue Fund Group			70467
2320 333621 Family and Children	\$	448,286	\$ 432,197 70468
First Administration			
4850 333632 Mental Health	\$	134,233	\$ 134,233 70469
Operating			
4X50 333607 Behavioral Health	\$	3,000,624	\$ 3,000,624 70470
Medicaid Services			
5V20 333611 Non-Federal	\$	100,000	\$ 100,000 70471
Miscellaneous			
4850 334632 Mental Health	\$	2,477,500	\$ 2,477,500 70472
Operating			
5AU0 335615 Behavioral Healthcare	\$	6,690,000	\$ 6,690,000 70473
6320 335616 Community Capital	\$	350,000	\$ 350,000 70474
Replacement			
TOTAL SSR State Special Revenue	\$	13,200,643	\$ 13,184,554 70475
Fund Group			
TOTAL ALL BUDGET FUND GROUPS	\$	1,084,203,266	\$ 555,555,553 70476
			<u>552,872,861</u>
Sec. 343.10. DNR DEPARTMENT OF NATURAL RESOURCES			70478
General Revenue Fund			70479
GRF 725401 Wildlife-GRF Central	\$	1,800,000	\$ 1,800,000 70480
Support			
GRF 725413 Lease Rental Payments	\$	20,568,600	\$ 19,734,700 70481
GRF 725456 Canal Lands	\$	135,000	\$ 135,000 70482
GRF 725502 Soil and Water	\$	2,900,000	\$ 2,900,000 70483
Districts			
GRF 725903 Natural Resources	\$	5,375,300	\$ 25,209,100 70484
General Obligation			

		Debt Service					
GRF	727321	Division of Forestry	\$	4,878,338	\$	4,880,000	70485
GRF	729321	Office of Information Technology	\$	194,118	\$	197,117	70486
GRF	730321	Division of Parks and Recreation	\$	30,000,000	\$	30,000,000	70487
GRF	736321	Division of Engineering	\$	3,024,459	\$	3,025,078 <u>2,995,078</u>	70488
GRF	737321	Division of Soil and Water Resources	\$	4,982,961	\$	4,983,356	70489
GRF	741321	Division of Natural Areas and Preserves	\$	1,200,000	\$	1,200,000	70490
TOTAL GRF		General Revenue Fund	\$	75,058,776	\$	94,064,351 <u>94,034,351</u>	70491
		General Services Fund Group					70492
1550	725601	Departmental Projects	\$	3,365,651	\$	2,725,484 <u>2,512,977</u>	70493
1570	725651	Central Support Indirect	\$	5,854,167	\$	5,857,800	70494
2040	725687	Information Services	\$	4,659,276	\$	4,643,835	70495
2070	725690	Real Estate Services	\$	50,000	\$	50,000	70496
2230	725665	Law Enforcement Administration	\$	2,106,776	\$	2,126,432	70497
2270	725406	Parks Projects Personnel	\$	436,500	\$	436,500	70498
4300	725671	Canal Lands	\$	907,618	\$	907,879 <u>883,879</u>	70499
4D50	725618	Recycled Materials	\$	50,000	\$	50,000 0	70500
4S90	725622	NatureWorks Personnel	\$	400,358	\$	400,358	70501
4X80	725662	Water Resources Council	\$	138,011	\$	138,005	70502
5100	725631	Maintenance - State-owned	\$	303,611	\$	303,611	70503

		Residences				
5160	725620	Water Management	\$	2,541,565	\$	2,559,292 70504
6350	725664	Fountain Square	\$	3,544,623	\$	3,548,445 70505
		Facilities Management				<u>3,473,413</u>
6970	725670	Submerged Lands	\$	836,162	\$	848,546 70506
TOTAL GSF General Services						70507
Fund Group			\$	25,194,318	\$	24,596,187 70508
						<u>24,234,648</u>
Federal Special Revenue Fund Group						70509
3320	725669	Federal Mine Safety	\$	258,102	\$	258,102 70510
		Grant				
3B30	725640	Federal Forest	\$	600,000	\$	600,000 70511
		Pass-Thru				
3B40	725641	Federal Flood	\$	600,000	\$	600,000 70512
		Pass-Thru				
3B50	725645	Federal Abandoned	\$	21,007,667	\$	21,207,667 70513
		Mine Lands				
3B60	725653	Federal Land and	\$	1,150,000	\$	1,150,000 70514
		Water Conservation				
		Grants				
3B70	725654	Reclamation -	\$	3,200,000	\$	3,200,000 70515
		Regulatory				
3P10	725632	Geological Survey -	\$	692,401	\$	692,401 70516
		Federal				
3P20	725642	Oil and Gas-Federal	\$	234,509	\$	234,509 70517
3P30	725650	Coastal Management -	\$	3,290,633	\$	3,290,633 70518
		Federal				
3P40	725660	Federal - Soil and	\$	1,213,048	\$	1,209,957 70519
		Water Resources				
3R50	725673	Acid Mine Drainage	\$	2,025,001	\$	2,025,001 70520
		Abatement/Treatment				
3Z50	725657	Federal Recreation	\$	1,850,000	\$	1,850,000 70521
		and Trails				

TOTAL FED Federal Special Revenue				70522
Fund Group	\$	36,121,361	\$ 36,318,270	70523
State Special Revenue Fund Group				70524
4J20 725628 Injection Well Review	\$	130,899	\$ 128,466	70525
4M70 725686 Wildfire Suppression	\$	100,000	\$ 100,000	70526
4U60 725668 Scenic Rivers	\$	100,000	\$ 100,000	70527
Protection				
5090 725602 State Forest	\$	7,891,747	\$ 7,058,793	70528
5110 725646 Ohio Geological	\$	704,777	\$ 705,130	70529
Mapping				
5120 725605 State Parks Operations	\$	32,284,117	\$ 31,550,444	70530
5140 725606 Lake Erie Shoreline	\$	1,502,654	\$ 1,505,983	70531
5180 725643 Oil and Gas Permit	\$	5,821,970	\$ 5,623,645	70532
Fees			<u>9,823,645</u>	
5180 725677 Oil and Gas Well	\$	800,000	\$ 800,000	70533
Plugging				
5210 725627 Off-Road Vehicle	\$	143,490	\$ 143,490	70534
Trails				
5220 725656 Natural Areas and	\$	546,580	\$ 546,639	70535
Preserves				
5260 725610 Strip Mining	\$	2,000,000	\$ 2,000,000	70536
Administration Fee				
5270 725637 Surface Mining	\$	1,940,977	\$ 1,941,532	70537
Administration				
5290 725639 Unreclaimed Land Fund	\$	2,004,180	\$ 2,004,180	70538
5310 725648 Reclamation Forfeiture	\$	1,423,000	\$ 1,423,000	70539
			<u>500,000</u>	
5320 725644 Litter Control and	\$	4,926,730	\$ 4,911,575 <u>0</u>	70540
Recycling				
5860 725633 Scrap Tire Program	\$	1,497,645	\$ 1,497,645 <u>0</u>	70541
5B30 725674 Mining Regulation	\$	28,135	\$ 28,135	70542
5BV0 725658 Heidelberg Water	\$	250,000	\$ 250,000	70543
Quality Lab				

As Pending in the House Finance and Appropriations Committee (L# 2171-5)

5BV0	725683	Soil and Water Districts	\$	8,000,000	\$	8,000,000	70544
5CU0	725647	Mine Safety	\$	3,000,000	\$	3,000,000	70545
5EJ0	725608	Forestry Law Enforcement	\$	1,000	\$	1,000	70546
5EK0	725611	Natural Areas & Preserves Law Enforcement	\$	1,000	\$	1,000	70547
5EL0	725612	Wildlife Law Enforcement	\$	12,000	\$	12,000	70548
5EM0	725613	Park Law Enforcement	\$	34,000	\$	34,000	70549
5EN0	725614	Watercraft Law Enforcement	\$	2,500	\$	2,500	70550
5HK0	725625	Ohio Nature Preserves	\$	1,000	\$	1,000	70551
6150	725661	Dam Safety	\$	925,344	\$	926,028	70552
TOTAL SSR State Special Revenue							70553
Fund Group			\$	76,073,745	\$	74,296,185	70554
							<u>71,163,965</u>
Clean Ohio Conservation Fund Group							70555
7061	725405	Clean Ohio Operating	\$	300,775	\$	300,775	70556
TOTAL CLF Clean Ohio Conservation							70557
Fund Group			\$	300,775	\$	300,775	
Wildlife Fund Group							70558
5P20	725634	Wildlife Boater Angler Administration	\$	4,000,000	\$	4,000,000	70559
7015	740401	Division of Wildlife Conservation	\$	52,721,044	\$	51,669,158	70560
8150	725636	Cooperative Management Projects	\$	120,449	\$	120,449	70561
8160	725649	Wetlands Habitat	\$	966,885	\$	966,885	70562
8170	725655	Wildlife Conservation Checkoff Fund	\$	3,240,000	\$	3,240,000	70563

8180	725629	Cooperative Fisheries Research	\$	1,500,000	\$	1,500,000	70564
8190	725685	Ohio River Management	\$	128,584	\$	128,584	70565
TOTAL WLF Wildlife Fund Group			\$	62,676,962	\$	61,625,076	70566
Waterways Safety Fund Group							70567
7086	725414	Waterways Improvement	\$	5,692,601	\$	5,693,671	70568
7086	725418	Buoy Placement	\$	52,182	\$	52,182	70569
7086	725501	Waterway Safety Grants	\$	120,000	\$	120,000	70570
7086	725506	Watercraft Marine Patrol	\$	576,153	\$	576,153	70571
7086	725513	Watercraft Educational Grants	\$	366,643	\$	366,643	70572
7086	739401	Division of Watercraft	\$	18,040,593	\$	17,552,370	70573
TOTAL WSF Waterways Safety Fund Group			\$	24,848,172	\$	24,361,019	70574 70575
Accrued Leave Liability Fund Group							70576
4M80	725675	FOP Contract	\$	20,219	\$	20,219	70577
TOTAL ALF Accrued Leave Liability Fund Group			\$	20,219	\$	20,219	70578 70579
Holding Account Redistribution Fund Group							70580
R017	725659	Performance Cash Bond Refunds	\$	296,263	\$	296,263	70581
R043	725624	Forestry	\$	2,000,000	\$	2,154,750	70582
TOTAL 090 Holding Account Redistribution Fund Group			\$	2,296,263	\$	2,451,013	70583 70584
TOTAL ALL BUDGET FUND GROUPS			\$	302,590,591	\$	318,033,095 <u>314,509,336</u>	70585

Sec. 365.10. PUC PUBLIC UTILITIES COMMISSION OF OHIO

General Services Fund Group

70587
70588

5F60	870622	Utility and Railroad Regulation	\$	30,637,234	\$	31,638,708	70589
5F60	870624	NARUC/NRRI Subsidy	\$	158,000	\$	158,000 <u>100,000</u>	70590
5F60	870625	Motor Transportation Regulation	\$	4,976,641	\$	5,971,218 <u>0</u>	70591
5Q50	870626	Telecommunications Relay Service	\$	5,000,000	\$	5,000,000	70592
TOTAL GSF General Services							70593
Fund Group			\$	40,771,875	\$	42,767,926 <u>36,738,708</u>	70594
Federal Special Revenue Fund Group							70595
3330	870601	Gas Pipeline Safety	\$	597,959	\$	597,959	70596
3500	870608	Motor Carrier Safety	\$	7,351,660	\$	7,351,660	70597
3CU0	870627	Electric Market Modeling	\$	91,183	\$	0	70598
3EA0	870630	Energy Assurance Planning	\$	384,000	\$	384,000	70599
3ED0	870631	State Regulators Assistance	\$	231,824	\$	231,824	70600
3V30	870604	Commercial Vehicle Information Systems/Networks	\$	100,000	\$	100,000	70601
TOTAL FED Federal Special Revenue							70602
Fund Group			\$	8,756,626	\$	8,665,443	70603
State Special Revenue Fund Group							70604
4A30	870614	Grade Crossing Protection Devices-State	\$	1,347,357	\$	1,347,357	70605
4L80	870617	Pipeline Safety-State	\$	181,992	\$	181,992	70606
4S60	870618	Hazardous Material Registration	\$	450,395	\$	450,395 <u>0</u>	70607

4S60	870621	Hazardous Materials	\$	373,346	\$	373,346	0	70608
		Base State						
		Registration						
4U80	870620	Civil Forfeitures	\$	277,347	\$	277,496	0	70609
5590	870605	Public Utilities	\$	3,880	\$	3,880	0	70610
		Territorial						
		Administration						
5600	870607	Special Assessment	\$	97,000	\$	97,000	0	70611
5610	870606	Power Siting Board	\$	631,508	\$	631,618		70612
						<u>581,618</u>		
5BP0	870623	Wireless 9-1-1	\$	36,440,000	\$	18,220,000		70613
		Administration				<u>17,757,250</u>		
5HD0	870629	Radioactive Waste	\$	98,800	\$	98,800	0	70614
		Transportation						
<u>5LT0</u>	<u>870640</u>	<u>Intrastate</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>180,000</u>		70615
		Registration						
<u>5LT0</u>	<u>870641</u>	<u>Unified Carrier</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>420,000</u>		70616
		Registration						
<u>5LT0</u>	<u>870642</u>	<u>Hazardous Materials</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>823,741</u>		70617
		Registration						
<u>5LT0</u>	<u>870643</u>	<u>Nonhazardous Materials</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>277,496</u>		70618
		Civil Forfeiture						
<u>5LT0</u>	<u>870644</u>	<u>Hazardous Materials</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>898,800</u>		70619
		Civil Forfeiture						
<u>5LT0</u>	<u>870645</u>	<u>Motor Carrier</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>5,401,318</u>		70620
		Enforcement						
6380	870611	Biofuels/Municipal	\$	570	\$		0	70621
		Waste Technology						
6610	870612	Hazardous Materials	\$	898,800	\$	898,800	0	70622
		Transportation						
TOTAL	SSR	State Special Revenue						70623
Fund Group			\$	40,800,995	\$	22,580,684		70624
						<u>27,869,572</u>		

TOTAL ALL BUDGET FUND GROUPS	\$	90,329,496	\$	74,014,053	70625
				<u>73,273,723</u>	

COMMUNITY-VOICEMAIL SERVICE PILOT PROGRAM 70626

The Community-voicemail Service Pilot Program assessments 70627
authorized by Section 6 of Sub. S.B. 162 of the 128th General 70628
Assembly shall cease. These assessments shall be refunded without 70629
interest to those assessed under the program by the Public 70630
Utilities Commission within 60 days of the effective date of this 70631
section. 70632

FUND ADJUSTMENTS 70633

On July 1, 2012, or as soon as practicable thereafter, the 70634
Director of Budget and Management shall transfer the cash balances 70635
in the Hazardous Materials Registration Fund (Fund 4S60) and the 70636
Base State Registration Fund (Fund 4G40) to the Public Utilities 70637
Transportation Safety Fund (Fund 5LT0). The Director shall cancel 70638
any existing encumbrances against appropriation items 870618, 70639
Hazardous Material Registration, and 870621, Hazardous Materials 70640
Base State Registration, and reestablish them against 70641
appropriation item 870642, Hazardous Materials Registration. The 70642
amounts of the reestablished encumbrances are hereby appropriated. 70643
Upon completion of these transfers, the Hazardous Materials 70644
Registration Fund (Fund 4S60) and the Base State Registration Fund 70645
(Fund 4G40) are hereby abolished. 70646

On July 1, 2012, or as soon as practicable thereafter, the 70647
Director of Budget and Management shall transfer the cash balance 70648
in the Transportation Enforcement Fund (Fund 4U80) to the Public 70649
Utilities Transportation Safety Fund (Fund 5LT0). The Director 70650
shall cancel any existing encumbrances against appropriation item 70651
870620, Civil Forfeitures, and reestablish them against 70652
appropriation item 870643, Nonhazardous Materials Civil 70653
Forfeitures. The amounts of the reestablished encumbrances are 70654
hereby appropriated. Upon completion of these transfers, the 70655

Transportation Enforcement Fund (Fund 4U80) is hereby abolished. 70656

On July 1, 2012, or as soon as practicable thereafter, the 70657
Director of Budget and Management shall transfer the cash balance 70658
in the Radioactive Waste Transportation Fund (Fund 5HD0) to the 70659
Public Utilities Transportation Safety Fund (Fund 5LT0). The 70660
Director shall cancel any existing encumbrances against 70661
appropriation item 870629, Radioactive Waste Transportation, and 70662
reestablish them against appropriation item 870645, Motor Carrier 70663
Enforcement. The amounts of the reestablished encumbrances are 70664
hereby appropriated. Upon completion of these transfers, the 70665
Radioactive Waste Transportation Fund (Fund 5HD0) is hereby 70666
abolished. 70667

On July 1, 2012, or as soon as practicable thereafter, the 70668
Director of Budget and Management shall transfer the cash balance 70669
in the Hazardous Materials Transportation Fund (Fund 6610) to the 70670
Public Utilities Transportation Safety Fund (Fund 5LT0). The 70671
Director shall cancel any existing encumbrances against 70672
appropriation item 870612, Hazardous Materials Transportation, and 70673
reestablish them against appropriation item 870644, Hazardous 70674
Materials Civil Forfeitures. The amounts of the reestablished 70675
encumbrances are hereby appropriated. Upon completion of these 70676
transfers, the Hazardous Materials Transportation Fund (Fund 6610) 70677
is hereby abolished. 70678

On July 1, 2012, or as soon as practicable thereafter, the 70679
Director of Budget and Management shall transfer cash in an amount 70680
up to \$21,000,000 from the Public Utilities Fund (Fund 5F60) to 70681
the Public Utilities Transportation Safety Fund (Fund 5LT0). The 70682
Director shall cancel any existing encumbrances against 70683
appropriation item 870625, Motor Transportation Regulation, and 70684
reestablish encumbrances or parts of encumbrances as needed in the 70685
fiscal year in the appropriate fund and appropriation item for the 70686
same purpose and to the same vendor. The amounts of the 70687

reestablished encumbrances are hereby appropriated. 70688

The fund created by division (E) of section 4921.21 of the 70689
Revised Code is the same fund, with the same name, as the Motor 70690
Carrier Safety Fund (Fund 3500). 70691

The fund created by division (D) of section 4921.21 of the 70692
Revised Code is the same fund, with the same name, as the 70693
Commercial Vehicle Transportation Systems Fund (Fund 3V30). 70694

Sec. 367.10. PWC PUBLIC WORKS COMMISSION 70695

General Revenue Fund 70696

GRF 150904 Conservation General \$ 21,953,000 \$ 29,297,300 70697
 Obligation Debt
 Service

GRF 150907 State Capital \$ 106,770,600 \$ ~~215,571,100~~ 70698
 Improvements 208,571,100

General Obligation 70699

Debt Service

TOTAL GRF General Revenue Fund \$ 128,723,600 \$ ~~244,868,400~~ 70700
237,868,400

Clean Ohio Conservation Fund Group 70701

7056 150403 Clean Ohio Operating \$ 300,000 \$ 288,980 70702
 Expenses

TOTAL 056 Clean Ohio Conservation \$ 300,000 \$ 288,980 70703

Fund Group

TOTAL ALL BUDGET FUND GROUPS \$ 129,023,600 \$ ~~245,157,380~~ 70704
238,157,380

CONSERVATION GENERAL OBLIGATION DEBT SERVICE 70705

The foregoing appropriation item 150904, Conservation General 70706
 Obligation Debt Service, shall be used to pay all debt service and 70707
 related financing costs during the period from July 1, 2011, 70708
 through June 30, 2013, at the times they are required to be made 70709

for obligations issued under sections 151.01 and 151.09 of the Revised Code. 70710
70711

STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE 70712

The foregoing appropriation item 150907, State Capital Improvements General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2011, through June 30, 2013, at the times they are required to be made for obligations issued under sections 151.01 and 151.08 of the Revised Code. 70713
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CLEAN OHIO OPERATING EXPENSES 70719

The foregoing appropriation item 150403, Clean Ohio Operating Expenses, shall be used by the Ohio Public Works Commission in administering Clean Ohio Conservation Fund (Fund 7056) projects pursuant to sections 164.20 to 164.27 of the Revised Code. 70720
70721
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70723

REIMBURSEMENT TO THE GENERAL REVENUE FUND 70724

(A) On or before July 15, 2013, the Director of the Public Works Commission shall certify to the Director of Budget and Management the following: 70725
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70727

(1) The total amount disbursed from appropriation item 700409, Farmland Preservation, during the FY 2012-FY 2013 biennium; and 70728
70729
70730

(2) The amount of interest earnings that have been credited to the Clean Ohio Conservation Fund (Fund 7056) that are in excess of the amount needed for other purposes as calculated by the Director of the Public Works Commission. 70731
70732
70733
70734

(B) If the Director of Budget and Management determines under division (A)(2) of this section that there are excess interest earnings, the Director of Budget and Management shall, on or before July 15, 2013, transfer the excess interest earnings to the General Revenue Fund in an amount equal to the total amount 70735
70736
70737
70738
70739

disbursed under division (A)(1) of this section from the Clean Ohio Conservation Fund (Fund 7056). 70740
 70741

Sec. 369.10. RAC STATE RACING COMMISSION 70742

State Special Revenue Fund Group 70743

5620 875601 Thoroughbred Race \$ 1,796,328 \$ 1,696,456 70744
 Fund

5630 875602 Standardbred \$ 1,697,418 \$ 1,697,452 70745
 Development Fund

5640 875603 Quarter Horse \$ 1,000 \$ 1,000 70746
 Development Fund

5650 875604 Racing Commission \$ 3,095,331 \$ 2,934,178 70747
 Operating

5C40 875607 Simulcast Horse \$ 12,000,000 \$ 12,000,000 70748
 Racing Purse

5JK0 875610 Racing Commission \$ 339,919 \$ 8,169,547 70749
Fund

TOTAL SSR State Special Revenue 70750

Fund Group \$ ~~18,590,078~~ \$ ~~18,329,087~~ 70751
18,929,996 26,498,633

Holding Account Redistribution Fund Group 70752

R021 875605 Bond Reimbursements \$ 100,000 \$ 100,000 70753

TOTAL 090 Holding Account 70754

Redistribution

Fund Group \$ 100,000 \$ 100,000 70755

TOTAL ALL BUDGET FUND GROUPS \$ ~~18,690,078~~ \$ ~~18,429,087~~ 70756
19,029,996 26,598,633

Sec. 371.10. BOR BOARD OF REGENTS 70758

General Revenue Fund 70759

GRF 235321 Operating Expenses \$ 2,300,000 \$ 2,300,000 70760

GRF 235401 Lease Rental Payments \$ 83,151,600 \$ 57,634,400 70761

GRF 235402	Sea Grants	\$	285,000	\$	285,000	70762
GRF 235406	Articulation and Transfer	\$	2,000,000	\$	2,000,000	70763
GRF 235408	Midwest Higher Education Compact	\$	95,000	\$	95,000	70764
GRF 235409	<u>HEI</u> Information System	\$	800,000	\$	800,000	70765
GRF 235414	State Grants and Scholarship Administration	\$	1,230,000	\$	1,230,000	70766
GRF 235417	Ohio Learning Network <u>eStudent Services</u>	\$	2,532,688	\$	2,532,688	70767
GRF 235428	Appalachian New Economy Partnership	\$	737,366	\$	737,366	70768
GRF 235433	Economic Growth Challenge	\$	440,000	\$	440,000	70769
GRF 235438	Choose Ohio First Scholarship	\$	15,750,085	\$	15,750,085	70770
GRF 235443	Adult Basic and Literacy Education - State	\$	7,302,416	\$	7,302,416	70771
GRF 235444	Post-Secondary Adult Career-Technical Education	\$	15,317,547	\$	15,317,547	70772
GRF 235474	Area Health Education Centers Program Support	\$	900,000	\$	900,000	70773
GRF 235501	State Share of Instruction	\$	1,735,530,031	\$	1,751,225,497	70774
GRF 235502	Student Support Services	\$	632,974	\$	632,974	70775
GRF 235504	War Orphans Scholarships	\$	4,787,833	\$	4,787,833	70776
GRF 235507	OhioLINK	\$	6,100,000	\$	6,100,000	70777

				<u>5,950,000</u>	
GRF 235508	Air Force Institute of Technology	\$ 1,740,803	\$ 1,740,803	70778	
GRF 235510	Ohio Supercomputer Center	\$ 3,347,418	\$ 3,347,418	70779	
GRF 235511	Cooperative Extension Service	\$ 22,220,910	\$ 22,220,910	70780	
GRF 235514	Central State Supplement	\$ 11,503,651	\$ 10,928,468	70781	
GRF 235515	Case Western Reserve University School of Medicine	\$ 2,146,253	\$ 2,146,253	70782	
GRF 235519	Family Practice	\$ 3,166,185	\$ 3,166,185	70783	
GRF 235520	Shawnee State Supplement	\$ 2,448,523	\$ 2,326,097	70784	
GRF 235524	Police and Fire Protection	\$ 107,814	\$ 107,814	70785	
GRF 235525	Geriatric Medicine	\$ 522,151	\$ 522,151	70786	
GRF 235526	Primary Care Residencies	\$ 1,500,000	\$ 1,500,000	70787	
GRF 235535	Ohio Agricultural Research and Development Center	\$ 33,100,000	\$ 33,100,000	70788	
GRF 235536	The Ohio State University Clinical Teaching	\$ 9,668,941	\$ 9,668,941	70789	
GRF 235537	University of Cincinnati Clinical Teaching	\$ 7,952,573	\$ 7,952,573	70790	
GRF 235538	University of Toledo Clinical Teaching	\$ 6,198,600	\$ 6,198,600	70791	
GRF 235539	Wright State University Clinical	\$ 3,011,400	\$ 3,011,400	70792	

	Teaching					
GRF 235540	Ohio University	\$	2,911,212	\$	2,911,212	70793
	Clinical Teaching					
GRF 235541	Northeast Ohio Medical University Clinical Teaching	\$	2,994,178	\$	2,994,178	70794
	Capital Component					
GRF 235552		\$	20,638,274	\$	20,638,274	70795
					<u>13,628,639</u>	
GRF 235555	Library Depositories	\$	1,440,342	\$	1,440,342	70796
GRF 235556	Ohio Academic Resources Network	\$	3,172,519	\$	3,172,519	70797
	Long-term Care Research					
GRF 235558		\$	195,300	\$	195,300	70798
	Ohio College Opportunity Grant					
GRF 235563		\$	80,284,265	\$	80,284,265	70799
	The Ohio State University Clinic Support					
GRF 235572		\$	766,533	\$	766,533	70800
	National Guard Scholarship Program					
GRF 235599		\$	16,912,271	\$	18,143,293	70801
	Higher Education General Obligation Debt Service					
GRF 235909		\$	108,262,500	\$	201,555,000	70802
TOTAL GRF General Revenue Fund		\$	2,226,105,156	\$	2,310,109,335	70803
					<u>2,302,949,700</u>	
	General Services Fund Group					70804
2200 235614	Program Approval and Reauthorization	\$	1,311,567	\$	1,457,959	70805
4560 235603	Sales and Services	\$	199,250	\$	199,250	70806
5JC0 235649	Co-op Internship Program	\$	12,000,000	\$	12,000,000	70807
5JC0 235667	Ohio College Opportunity	\$	6,000,000	\$	6,000,000	70808

		Grant-Proprietary					
5JC0	235668	Air Force Institute of Technology - Defense/Aerospace Graduate Studies Institute	\$	4,000,000	\$	4,000,000	70809
TOTAL GSF General Services							70810
Fund Group			\$	23,510,817	\$	23,657,209	70811
Federal Special Revenue Fund Group							70812
3120	235609	Tech Prep	\$	183,850	\$	183,850 0	70813
3120	235611	Gear-up Grant	\$	3,900,000	\$	3,900,000	70814
						<u>50,000</u>	
3120	235612	Carl D. Perkins Grant/Plan Administration	\$	912,961	\$	912,961	70815
3120	235617	Improving Teacher Quality Grant	\$	3,200,000	\$	3,200,000	70816
3120	235641	Adult Basic and Literacy Education - Federal	\$	14,835,671	\$	14,835,671	70817
3120	235659	Race to the Top Scholarship Program	\$	2,400,000	\$	3,780,000 0	70818
3120	235660	Race to the Top Educator Preparation Reform Initiative	\$	448,000	\$	1,120,000 0	70819
3120	235661	Americorps Grant	\$	260,000	\$	260,000 0	70820
3H20	235608	Human Services Project	\$	3,500,000	\$	3,500,000	70821
3N60	235638	College Access Challenge Grant	\$	4,381,431	\$	4,381,431	70822
TOTAL FED Federal Special Revenue							70823
Fund Group			\$	34,021,913	\$	36,073,913	70824
						<u>26,880,063</u>	

State Special Revenue Fund Group					70825
4E80 235602 Higher Educational	\$	29,100	\$	29,100	70826
Facility Commission					
Administration					
5FR0 235640 Joyce Foundation	\$	919,719	\$	919,719	70827
<u>Shifting Gears</u> Grant					
5FR0 235647 Developmental	\$	135,000	\$	135,000	70828
Education Initiatives					
5FR0 235657 Win-Win Grant	\$	37,000	\$	15,000	70829
5P30 235663 Variable Savings Plan	\$	8,946,994	\$	9,072,136	70830
6450 235664 Guaranteed Savings	\$	900,293	\$	907,514	70831
Plan					
6820 235606 Nursing Loan Program	\$	891,320	\$	891,320	70832
TOTAL SSR State Special Revenue					70833
Fund Group	\$	11,859,426	\$	11,969,789	70834
Third Frontier Research & Development Fund Group					70835
7011 235634 Research Incentive	\$	8,000,000	\$	8,000,000	70836
Third Frontier Fund					
TOTAL 011 Third Frontier Research &	\$	8,000,000	\$	8,000,000	70837
Development Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	2,303,497,312	\$	2,389,810,246	70838
				<u>2,373,456,761</u>	

Sec. 371.50.61. CO-OP INTERNSHIP PROGRAM 70840

Of the foregoing appropriation item 235649, Co-op Internship 70841
 Program, \$75,000 in each fiscal year shall be used by the 70842
 Chancellor of the Board of Regents to support the operations of 70843
 Ohio University's Voinovich School. 70844

Of the foregoing appropriation item 235649, Co-op Internship 70845
 Program, \$75,000 in each fiscal year, shall be used by the 70846
 Chancellor of the Board of Regents to support the operations of 70847
 The Ohio State University's John Glenn School of Public Affairs. 70848

Of the foregoing appropriation item 235649, Co-op Internship Program, \$75,000 in each fiscal year shall be used to support the Bliss Institute of Applied Politics at the University of Akron.

Of the foregoing appropriation item 235649, Co-op Internship Program, \$75,000 in each fiscal year shall be used to support the Center for Public Management and Regional Affairs at Miami University.

Of the foregoing appropriation item 235649, Co-op Internship Program, \$75,000 in each fiscal year shall be used to support the Washington Center Internship Program.

Of the foregoing appropriation item 235649, Co-op Internship Program, \$75,000 in each fiscal year shall be used to support the ~~Maxine Goodman Levin College of Urban Affairs~~ mentoring program of the Ohio Center for the Advancement of Women in Public Service at the Cleveland State University.

Of the foregoing appropriation item 235649, Co-op Internship Program, \$75,000 in each fiscal year shall be used to support the University of Cincinnati Internship Program.

Sec. 371.60.80. (A) The Ohio Digital Learning Task Force is hereby established to develop a strategy for the expansion of digital learning that enables students to customize their education, produces cost savings, and meets the needs of Ohio's economy. The Task Force shall consist of the following members:

(1) The Chancellor of the Ohio Board of Regents or the Chancellor's designee;

(2) The Superintendent of Public Instruction or the Superintendent's designee;

(3) The Director of the Governor's Office of 21st Century Education or the Director's designee;

(4) Up to six members appointed by the Governor, who shall be

representatives of school districts or community schools, 70879
established under Chapter 3314. of the Revised Code, that are 70880
high-performing of their type and have demonstrated the ability to 70881
incorporate technology into the classroom successfully; 70882

(5) A member appointed by the President of the Senate; 70883

(6) A member appointed by the Speaker of the House of 70884
Representatives. 70885

(B) Members of the Task Force shall be appointed not later 70886
than sixty days after the effective date of this section. 70887
Vacancies on the Task Force shall be filled in the same manner as 70888
the original appointments. Members shall serve without 70889
compensation. 70890

(C) The Governor shall designate the chairperson of the Task 70891
Force. All meetings of the Task Force shall be held at the call of 70892
the chairperson. 70893

(D) The Task Force shall do all of the following: 70894

(1) Request information from textbook publishers about the 70895
development of digital textbooks and other new digital content 70896
distribution methods for use by primary, secondary, and 70897
post-secondary schools and institutions and examine that 70898
information; 70899

(2) Examine potential cost savings and efficiency of 70900
utilizing digital textbooks and other new digital content 70901
distribution methods in primary, secondary, and post-secondary 70902
schools and institutions; 70903

(3) Examine potential academic benefits of utilizing digital 70904
textbooks and other new digital content distribution methods, 70905
including, but not limited to, the ability to individualize 70906
content to specific student learning styles, accessibility for 70907
individuals with disabilities, and the integration of formative 70908

and other online assessments; 70909

(4) Examine digital content pilot programs and initiatives 70910
currently operating at primary, secondary, and post-secondary 70911
schools and institutions in Ohio, including, but not limited to, 70912
those financed in part with federal funds; 70913

(5) Examine any state-level initiatives to provide or 70914
facilitate use of digital content in primary, secondary, and 70915
post-secondary schools and institutions in Ohio. 70916

(E) The Task Force shall make recommendations regarding all 70917
of the following: 70918

(1) The creation of high quality digital content and 70919
instruction in grades kindergarten to twelve for free access by 70920
public and nonpublic schools and students receiving home 70921
instruction; 70922

(2) High quality professional development for teachers and 70923
principals providing online instruction or blended learning 70924
programs; 70925

(3) Funding strategies that create incentives for high 70926
performance, innovation, and options in course providers and 70927
delivery; 70928

(4) Student assessment and accountability; 70929

(5) Infrastructure to support digital learning; 70930

(6) Mobile learning and mobile learning applications; 70931

(7) The clearinghouse established under section 3333.82 of 70932
the Revised Code; 70933

(8) Ways to align the resources and digital learning 70934
initiatives of state agencies and offices; 70935

(9) Methods for removing redundancy and inefficiency in, and 70936
for providing coordination, of all digital learning programs, 70937

including the provision of free online instruction to public and nonpublic schools on a statewide basis; 70938
 70939

(10) Methods of addressing future changes in technology and learning. 70940
 70941

~~(E)~~(F) Not later than March 1, 2012, the Task Force shall issue a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives. ~~Upon issuance of~~ After issuing its report, the Task Force shall monitor the implementation of its recommendations. Not later than June 30, 2012, the Task Force shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives whether digital learning is advancing in Ohio schools and submit any recommendations to further enhance the full deployment of useful digital learning programs and services. The Task Force shall cease to exist on June 30, 2012. 70942
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Sec. 373.10. DRC DEPARTMENT OF REHABILITATION AND CORRECTION 70954

General Revenue Fund				70955
GRF 501321	Institutional Operations	\$ 909,547,156	\$ 866,592,589	70956
GRF 501403	Prisoner Compensation	\$ 8,599,255	\$ 8,599,255	70957
GRF 501405	Halfway House	\$ 43,637,069	\$ 43,622,104	70958
GRF 501406	Lease Rental Payments	\$ 42,863,100	\$ 104,301,500	70959
GRF 501407	Community Nonresidential Programs	\$ 25,859,382	\$ 25,839,390	70960
GRF 501408	Community Misdemeanor Programs	\$ 14,906,800	\$ 14,906,800	70961
GRF 501501	Community Residential Programs - CBCF	\$ 62,692,785	\$ 62,477,785	70962
GRF 502321	Mental Health Services	\$ 58,525,816	\$ 51,778,513	70963

GRF	503321	Parole and Community Operations	\$	68,197,272	\$	63,783,848	70964
GRF	504321	Administrative Operations	\$	21,996,504	\$	20,085,474	70965
GRF	505321	Institution Medical Services	\$	209,231,014	\$	195,241,961	70966
GRF	506321	Institution Education Services	\$	20,237,576	\$	18,086,492	70967
GRF	507321	Institution Recovery Services	\$	5,786,109	\$	5,375,737	70968
TOTAL GRF	General Revenue Fund		\$	1,492,079,838	\$	1,480,691,448	70969
General Services Fund Group							70970
1480	501602	Services and Agricultural Institutional Services	\$	3,579,250	\$	3,584,263	70971
2000	501607	Ohio Penal Industries	\$	38,000,000	\$	38,000,000	70972
4830	501605	Property Receipts	\$	182,723	\$	182,086	70973
4B00	501601	Sewer Treatment Services	\$	2,145,630	\$	2,157,682 <u>2,057,682</u>	70974
4D40	501603	Prisoner Programs	\$	14,900,000	\$	14,900,000	70975
4L40	501604	Transitional Control	\$	1,168,843	\$	1,213,120 <u>1,113,120</u>	70976
4S50	501608	Education Services	\$	2,376,041	\$	2,359,775	70977
5710	501606	Training Academy Receipts	\$	125,000	\$	125,000	70978
5930	501618	Laboratory Services	\$	6,665,137	\$	6,664,729	70979
5AF0	501609	State and Non-Federal Awards	\$	1,440,000	\$	1,440,000	70980
5H80	501617	Offender Financial Responsibility	\$	2,000,000	\$	2,000,000	70981
5L60	501611	Information Technology Services	\$	600,000	\$	600,000 <u>350,000</u>	70982

TOTAL GSF General Services Fund	\$	73,182,624	\$	73,226,655	70983
Group				<u>72,776,655</u>	
Federal Special Revenue Fund Group					70984
3230 501619 Federal Grants	\$	9,013,558	\$	9,180,703	70985
TOTAL FED Federal Special Revenue					70986
Fund Group	\$	9,013,558	\$	9,180,703	70987
TOTAL ALL BUDGET FUND GROUPS	\$	1,574,276,020	\$	1,563,098,806	70988
				<u>1,562,648,806</u>	

TRANSFER OF OPERATING APPROPRIATIONS TO IMPLEMENT CRIMINAL 70989
SENTENCING REFORMS 70990

For the purposes of implementing criminal sentencing reforms, 70991
and notwithstanding any other provision of law to the contrary, 70992
the Director of Budget and Management, at the request of the 70993
Director of Rehabilitation and Correction, may transfer up to 70994
\$14,000,000 in appropriations, in each of fiscal years 2012 and 70995
2013, from appropriation item 501321, Institutional Operations, to 70996
any combination of appropriation items 501405, Halfway House; 70997
501407, Community Residential Programs; 501408, Community 70998
Misdemeanor Programs; and 501501, Community Residential Programs - 70999
CBCF. 71000

OHIO BUILDING AUTHORITY LEASE PAYMENTS 71001

The foregoing appropriation item 501406, Lease Rental 71002
Payments, shall be used to meet all payments at the times they are 71003
required to be made during the period from July 1, 2011, through 71004
June 30, 2013, by the Department of Rehabilitation and Correction 71005
to the Ohio Building Authority under the primary leases and 71006
agreements for those buildings made under Chapter 152. of the 71007
Revised Code. These appropriations are the source of funds pledged 71008
for bond service charges or obligations issued pursuant to Chapter 71009
152. of the Revised Code. 71010

OSU MEDICAL CHARGES 71011

Notwithstanding section 341.192 of the Revised Code, at the request of the Department of Rehabilitation and Correction, The Ohio State University Medical Center, including the James Cancer Hospital and Solove Research Institute and the Richard M. Ross Heart Hospital, shall provide necessary care to persons who are confined in state adult correctional facilities. The provision of necessary care shall be billed to the Department at a rate not to exceed the authorized reimbursement rate for the same service established by the Department of Job and Family Services under the Medical Assistance Program.

CASH TRANSFER FROM INSTITUTIONAL SERVICES FUND TO OHIO PENAL INDUSTRIES FUND

The Director of Budget and Management may transfer an amount not to exceed \$4,000,000 in cash in fiscal year 2013 from the Institutional Services Fund (Fund 1480) to the Ohio Penal Industries Fund (Fund 2000).

Sec. 375.10. RSC REHABILITATION SERVICES COMMISSION

General Revenue Fund				71028
GRF	415402	Independent Living Council	\$ 252,000 \$ 252,000	71029
GRF	415406	Assistive Technology	\$ 26,618 \$ 26,618	71030
GRF	415431	Office for People with Brain Injury	\$ 126,567 \$ 126,567	71031
GRF	415506	Services for People with Disabilities	\$ 12,777,884 \$ 12,777,884	71032
GRF	415508	Services for the Deaf	\$ 28,000 \$ 28,000	71033
TOTAL GRF General Revenue Fund				71034
				71035
General Services Fund Group				71036
4670	415609	Business Enterprise Operating Expenses	\$ 1,308,431 \$ 1,303,090	71037

TOTAL GSF General Services				71038
Fund Group	\$	1,308,431	\$ 1,303,090	71039
Federal Special Revenue Fund Group				71040
3170 415620 Disability	\$	97,579,095	\$ 97,579,095	71041
Determination			<u>87,579,095</u>	
3790 415616 Federal - Vocational	\$	103,160,426	\$ 103,150,102	71042
Rehabilitation				
3L10 415601 Social Security	\$	3,370,000	\$ 3,370,000	71043
Personal Care				
Assistance				
3L10 415605 Social Security	\$	772,000	\$ 772,000	71044
Community Centers for				
the Deaf				
3L10 415608 Social Security	\$	1,521,406	\$ 1,520,184	71045
Special				
Programs/Assistance				
3L40 415612 Federal Independent	\$	652,222	\$ 652,222	71046
Living Centers or				
Services				
3L40 415615 Federal - Supported	\$	929,755	\$ 929,755	71047
Employment				
3L40 415617 Independent	\$	2,137,338	\$ 2,137,338	71048
Living/Vocational				
Rehabilitation				
Programs				
TOTAL FED Federal Special				71049
Revenue Fund Group	\$	210,122,242	\$ 210,110,696	71050
			<u>200,110,696</u>	
State Special Revenue Fund Group				71051
4680 415618 Third Party Funding	\$	10,802,589	\$ 10,802,589	71052
4L10 415619 Services for	\$	3,700,000	\$ 3,700,000	71053
Rehabilitation				

4W50 415606	Program Management	\$	11,636,730	\$	11,587,201	71054
	Expenses					
TOTAL SSR State Special						71055
Revenue Fund Group		\$	26,139,319	\$	26,089,790	71056
TOTAL ALL BUDGET FUND GROUPS		\$	250,781,061	\$	250,714,645	71057
					<u>240,714,645</u>	

INDEPENDENT LIVING COUNCIL 71058

The foregoing appropriation item 415402, Independent Living 71059
Council, shall be used to fund the operations of the State 71060
Independent Living Council and to support state independent living 71061
centers and independent living services under Title VII of the 71062
Independent Living Services and Centers for Independent Living of 71063
the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29 71064
U.S.C. 796d. 71065

Of the foregoing appropriation item 415402, Independent 71066
Living Council, \$67,662 in each fiscal year shall be used as state 71067
matching funds for vocational rehabilitation innovation and 71068
expansion activities. 71069

ASSISTIVE TECHNOLOGY 71070

The total amount of the foregoing appropriation item 415406, 71071
Assistive Technology, shall be provided to Assistive Technology of 71072
Ohio to provide grants and assistive technology services for 71073
people with disabilities in the State of Ohio. 71074

OFFICE FOR PEOPLE WITH BRAIN INJURY 71075

The foregoing appropriation item 415431, Office for People 71076
with Brain Injury, shall be used to plan and coordinate 71077
head-injury-related services provided by state agencies and other 71078
government or private entities, to assess the needs for such 71079
services, and to set priorities in this area. 71080

Of the foregoing appropriation item 415431, Office for People 71081
with Brain Injury, \$44,067 in each fiscal year shall be used as 71082

state matching funds to provide vocational rehabilitation services 71083
to eligible consumers. 71084

VOCATIONAL REHABILITATION SERVICES 71085

The foregoing appropriation item 415506, Services for People 71086
with Disabilities, shall be used as state matching funds to 71087
provide vocational rehabilitation services to eligible consumers. 71088

At the request of the Chancellor of the Board of Regents, the 71089
Director of Budget and Management may transfer any unexpended, 71090
unencumbered appropriation in fiscal year 2012 or fiscal year 2013 71091
from appropriation item 235502, Student Support Services, to 71092
appropriation item 415506, Services for People with Disabilities. 71093
Any appropriation so transferred shall be used by the Ohio 71094
Rehabilitation Services Commission to obtain additional federal 71095
matching funds to serve disabled students. 71096

SERVICES FOR THE DEAF 71097

The foregoing appropriation item 415508, Services for the 71098
Deaf, shall be used to provide grants to community centers for the 71099
deaf. 71100

INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS 71101

The foregoing appropriation item 415617, Independent 71102
Living/Vocational Rehabilitation Programs, shall be used to 71103
support vocational rehabilitation programs. 71104

SOCIAL SECURITY REIMBURSEMENT FUNDS 71105

Reimbursement funds received from the Social Security 71106
Administration, United States Department of Health and Human 71107
Services, for the costs of providing services and training to 71108
return disability recipients to gainful employment shall be 71109
expended from the Social Security Reimbursement Fund (Fund 3L10), 71110
to the extent funds are available, as follows: 71111

(A) Appropriation item 415601, Social Security Personal Care 71112

Assistance, to provide personal care services in accordance with 71113
 section 3304.41 of the Revised Code; 71114

(B) Appropriation item 415605, Social Security Community 71115
 Centers for the Deaf, to provide grants to community centers for 71116
 the deaf in Ohio for services to individuals with hearing 71117
 impairments; and 71118

(C) Appropriation item 415608, Social Security Special 71119
 Programs/Assistance, to provide vocational rehabilitation services 71120
 to individuals with severe disabilities who are Social Security 71121
 beneficiaries, to enable them to achieve competitive employment. 71122
 This appropriation item shall also be used to pay a portion of 71123
 indirect costs of the Personal Care Assistance Program and the 71124
 Independent Living Programs as mandated by federal OMB Circular 71125
 A-87. 71126

PROGRAM MANAGEMENT EXPENSES 71127

The foregoing appropriation item 415606, Program Management 71128
 Expenses, shall be used to support the administrative functions of 71129
 the commission related to the provision of vocational 71130
 rehabilitation, disability determination services, and ancillary 71131
 programs. 71132

Sec. 379.10. RDF REVENUE DISTRIBUTION FUNDS 71133

Volunteer Firefighters' Dependents Fund 71134

7085	800985	Volunteer Firemen's	\$	300,000	\$	300,000	71135
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Dependents Fund

TOTAL 085 Volunteer Firefighters' 71136

		Dependents Fund	\$	300,000	\$	300,000	71137
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Agency Fund Group 71138

4P80	001698	Cash Management	\$	3,100,000	\$	3,100,000	71139
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Improvement Fund

5JG0	110633	Gross Casino Revenue	\$	5,778,617	\$	138,882,294	71140
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As Pending in the House Finance and Appropriations Committee (L# 2171-5)

		County Fund					
5JH0	110634	Gross Casino Revenue	\$	3,852,412	\$	92,588,196	71141
		County Student Fund					
5JJ0	110636	Gross Casino Revenue	\$	566,531	\$	13,615,911	71142
		Host City Fund					
5JK0	875610	Ohio State Racing	\$	339,919	\$	8,169,547	71143
		Commission Fund					
5JL0	038629	Problem Casino	\$	226,612	\$	5,446,364	71144
		Gambling and					
		Addictions Fund					
5JN0	055654	Ohio Law Enforcement	\$	226,612	\$	5,446,364	71145
		Training Fund					
6080	001699	Investment Earnings	\$	50,000,000	\$	150,000,000	71146
7062	110962	Resort Area Excise	\$	1,000,000	\$	1,000,000	71147
		Tax					
7063	110963	Permissive Tax	\$	1,904,500,000	\$	1,980,700,000	71148
		Distribution					
7067	110967	School District	\$	317,000,000	\$	330,000,000	71149
		Income Tax					
TOTAL AGY	Agency Fund Group		\$	2,286,590,703	\$	2,728,948,676	71150
				<u>2,285,797,560</u>		<u>2,709,886,401</u>	
		Holding Account Redistribution					71151
R045	110617	International Fuel	\$	40,000,000	\$	40,000,000	71152
		Tax Distribution					
TOTAL 090	Holding Account						71153
		Redistribution Fund					
		Revenue Distribution Fund Group	\$	40,000,000	\$	40,000,000	71154
7049	038900	Indigent Drivers	\$	2,200,000	\$	2,200,000	71155
		Alcohol Treatment					
7050	762900	International	\$	30,000,000	\$	30,000,000	71156
		Registration Plan					
		Distribution					
7051	762901	Auto Registration	\$	539,000,000	\$	539,000,000	71157

		Distribution				
7054	110954	Local Government	\$ 16,000,000	\$ 11,000,000		71158
		Property Tax				
		Replacement - Utility				
7060	110960	Gasoline Excise Tax	\$ 393,000,000	\$ 395,000,000		71159
		Fund				
7065	110965	Public Library Fund	\$ 354,000,000	\$ 345,000,000		71160
7066	800966	Undivided Liquor	\$ 14,100,000	\$ 14,100,000		71161
		Permits				
7068	110968	State and Local	\$ 193,000,000	\$ 196,000,000		71162
		Government Highway				
		Distribution				
7069	110969	Local Government Fund	\$ 577,000,000	\$ 348,000,000		71163
7081	110981	Local Government	\$ 291,000,000	\$ 181,000,000		71164
		Property Tax				
		Replacement-Business				
7082	110982	Horse Racing Tax	\$ 100,000	\$ 100,000		71165
7083	700900	Ohio Fairs Fund	\$ 1,400,000	\$ 1,400,000		71166
TOTAL RDF Revenue Distribution						71167
Fund Group			\$ 2,410,800,000	\$ 2,062,800,000		71168
TOTAL ALL BUDGET FUND GROUPS			\$ 4,737,690,703	\$ 4,832,048,676		71169
			<u>4,736,897,560</u>	<u>4,812,986,401</u>		

ADDITIONAL APPROPRIATIONS 71170

Appropriation items in this section shall be used for the 71171
 purpose of administering and distributing the designated revenue 71172
 distribution funds according to the Revised Code. If it is 71173
 determined that additional appropriations are necessary for this 71174
 purpose, such amounts are hereby appropriated. 71175

GENERAL REVENUE FUND TRANSFERS 71176

Notwithstanding any provision of law to the contrary, in 71177
 fiscal year 2012 and fiscal year 2013, the Director of Budget and 71178
 Management may transfer from the General Revenue Fund to the Local 71179

Government Tangible Property Tax Replacement Fund (Fund 7081) in 71180
 the Revenue Distribution Fund Group, those amounts necessary to 71181
 reimburse local taxing units under section 5751.22 of the Revised 71182
 Code. Also, in fiscal year 2012 and fiscal year 2013, the Director 71183
 of Budget and Management may make temporary transfers from the 71184
 General Revenue Fund to ensure sufficient balances in the Local 71185
 Government Tangible Property Tax Replacement Fund (Fund 7081) and 71186
 to replenish the General Revenue Fund for such transfers. 71187

Sec. 387.10. SFC SCHOOL FACILITIES COMMISSION

71188

General Revenue Fund

71189

GRF 230908	Common Schools	\$ 150,604,900	\$ 341,919,400	71190
	General Obligation		<u>329,919,400</u>	
	Debt Service			

TOTAL GRF General Revenue Fund	\$ 150,604,900	\$ 341,919,400	71191
		<u>329,919,400</u>	

State Special Revenue Fund Group

71192

5E30 230644	Operating Expenses	\$ 8,950,000	\$ 8,550,000	71193
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TOTAL SSR State Special Revenue

71194

Fund Group	\$ 8,950,000	\$ 8,550,000	71195
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TOTAL ALL BUDGET FUND GROUPS	\$ 159,554,900	\$ 350,469,400	71196
		<u>338,469,400</u>	

Sec. 403.10. TAX DEPARTMENT OF TAXATION

71198

General Revenue Fund

71199

GRF 110321	Operating Expenses	\$ 73,500,000	\$ 73,550,000	71200
			<u>72,814,500</u>	

GRF 110404	Tobacco Settlement	\$ 200,000	\$ 200,000	71201
	Enforcement		<u>198,000</u>	

GRF 110412	Child Support	\$ 15,804	\$ 15,804 <u>15,646</u>	71202
	Administration			

GRF 110901	Property Tax	\$ 610,900,000	\$ 616,000,000	71203
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Allocation - Taxation

TOTAL GRF General Revenue Fund	\$	684,615,804	\$	689,765,804	71204
				<u>689,028,146</u>	
General Services Fund Group					71205
2280 110628 Tax Reform System	\$	13,638,008	\$	13,642,176	71206
Implementation				<u>13,505,754</u>	
4330 110602 Tape File Account	\$	197,802	\$	197,878	71207
				<u>195,899</u>	
5AP0 110632 Discovery Project	\$	2,445,799	\$	2,445,657	71208
				<u>2,421,200</u>	
5BW0 110630 Tax Amnesty Promotion	\$	2,500,000	\$	0	71209
and Administration					
5CZ0 110631 Vendor's License	\$	250,000	\$	250,000	71210
Application					
5N50 110605 Municipal Income Tax	\$	339,798	\$	339,975	71211
Administration				<u>336,575</u>	
5N60 110618 Kilowatt Hour Tax	\$	150,000	\$	150,000	71212
Administration				<u>148,500</u>	
5V80 110623 Property Tax	\$	12,195,733	\$	12,099,303	71213
Administration				<u>11,978,310</u>	
5W40 110625 Centralized Tax	\$	200,000	\$	200,000	71214
Filing and Payment				<u>198,000</u>	
5W70 110627 Exempt Facility	\$	50,000	\$	50,000	71215
Administration				<u>49,500</u>	
TOTAL GSF General Services					71216
Fund Group	\$	31,967,140	\$	29,374,989	71217
				<u>29,083,738</u>	
State Special Revenue Fund Group					71218
4350 110607 Local Tax	\$	19,028,339	\$	19,225,941	71219
Administration				<u>19,033,682</u>	
4360 110608 Motor Vehicle Audit	\$	1,474,081	\$	1,474,353	71220
				<u>1,459,609</u>	

As Pending in the House Finance and Appropriations Committee (L# 2171-5)

4370	110606	Litter/Natural Resource Tax Administration	\$	20,000	\$	20,000	<u>19,800</u>	71221
4380	110609	School District Income Tax	\$	5,859,041	\$	5,860,650	<u>5,802,044</u>	71222
4C60	110616	International Registration Plan	\$	689,296	\$	689,308	<u>682,415</u>	71223
4R60	110610	Tire Tax Administration	\$	245,462	\$	246,660	<u>244,193</u>	71224
5V70	110622	Motor Fuel Tax Administration	\$	5,384,254	\$	5,086,236	<u>5,035,374</u>	71225
6390	110614	Cigarette Tax Enforcement	\$	1,384,217	\$	1,384,314	<u>1,370,471</u>	71226
6420	110613	Ohio Political Party Distributions	\$	500,000	\$	500,000		71227
6880	110615	Local Excise Tax Administration	\$	782,630	\$	782,843	<u>775,015</u>	71228
TOTAL SSR State Special Revenue								71229
Fund Group			\$	35,367,320	\$	35,270,305	<u>34,922,603</u>	71230
Agency Fund Group								71231
4250	110635	Tax Refunds	\$	1,546,800,000	\$	1,546,800,000		71232
7095	110995	Municipal Income Tax	\$	21,000,000	\$	21,000,000		71233
TOTAL AGY Agency Fund Group			\$	1,567,800,000	\$	1,567,800,000		71234
Holding Account Redistribution Fund Group								71235
R010	110611	Tax Distributions	\$	50,000	\$	50,000		71236
R011	110612	Miscellaneous Income Tax Receipts	\$	50,000	\$	50,000		71237
TOTAL 090 Holding Account Redistribution Fund Group								71238
TOTAL ALL BUDGET FUND GROUPS			\$	2,319,850,264	\$	2,322,311,098	<u>2,320,934,487</u>	71240

HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK 71241

The foregoing appropriation item 110901, Property Tax Allocation - Taxation, is hereby appropriated to pay for the state's costs incurred due to the Homestead Exemption, the Manufactured Home Property Tax Rollback, and the Property Tax Rollback. The Tax Commissioner shall distribute these funds directly to the appropriate local taxing districts, except for school districts, notwithstanding the provisions in sections 321.24 and 323.156 of the Revised Code, which provide for payment of the Homestead Exemption, the Manufactured Home Property Tax Rollback, and Property Tax Rollback by the Tax Commissioner to the appropriate county treasurer and the subsequent redistribution of these funds to the appropriate local taxing districts by the county auditor.

Upon receipt of these amounts, each local taxing district shall distribute the amount among the proper funds as if it had been paid as real property taxes. Payments for the costs of administration shall continue to be paid to the county treasurer and county auditor as provided for in sections 319.54, 321.26, and 323.156 of the Revised Code.

Any sums, in addition to the amounts specifically appropriated in appropriation item 110901, Property Tax Allocation - Taxation, for the Homestead Exemption, the Manufactured Home Property Tax Rollback, and the Property Tax Rollback payments, which are determined to be necessary for these purposes, are hereby appropriated.

TAX AMNESTY PROMOTION AND ADMINISTRATION 71267

The foregoing appropriation item 110630, Tax Amnesty Promotion and Administration, shall be used to pay expenses incurred to promote and administer the tax amnesty program to be conducted from May 1, 2012, through June 15, 2012, by the

Department of Taxation pursuant to Section 757.40 of this act <u>Am.</u>	71272
<u>Sub. H.B. 153 of the 129th General Assembly.</u>	71273
MUNICIPAL INCOME TAX	71274
The foregoing appropriation item 110995, Municipal Income	71275
Tax, shall be used to make payments to municipal corporations	71276
under section 5745.05 of the Revised Code. If it is determined	71277
that additional appropriations are necessary to make such	71278
payments, such amounts are hereby appropriated.	71279
TAX REFUNDS	71280
The foregoing appropriation item 110635, Tax Refunds, shall	71281
be used to pay refunds under section 5703.052 of the Revised Code.	71282
If it is determined that additional appropriations are necessary	71283
for this purpose, such amounts are hereby appropriated.	71284
INTERNATIONAL REGISTRATION PLAN AUDIT	71285
The foregoing appropriation item 110616, International	71286
Registration Plan, shall be used under section 5703.12 of the	71287
Revised Code for audits of persons with vehicles registered under	71288
the International Registration Plan.	71289
TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT	71290
Of the foregoing appropriation item 110607, Local Tax	71291
Administration, the Tax Commissioner may disburse funds, if	71292
available, for the purposes of paying travel expenses incurred by	71293
members of Ohio's delegation to the Streamlined Sales Tax Project,	71294
as appointed under section 5740.02 of the Revised Code. Any travel	71295
expense reimbursement paid for by the Department of Taxation shall	71296
be done in accordance with applicable state laws and guidelines.	71297
CENTRALIZED TAX FILING AND PAYMENT FUND	71298
The Director of Budget and Management, under a plan submitted	71299
by the Tax Commissioner, or as otherwise determined by the	71300
Director of Budget and Management, shall set a schedule to	71301

transfer cash from the General Revenue Fund to the credit of the 71302
 Centralized Tax Filing and Payment Fund (Fund 5W40). The transfers 71303
 of cash shall not exceed \$400,000 in the biennium. 71304

TOBACCO SETTLEMENT ENFORCEMENT 71305

The foregoing appropriation item 110404, Tobacco Settlement 71306
 Enforcement, shall be used by the Tax Commissioner to pay costs 71307
 incurred in the enforcement of divisions (F) and (G) of section 71308
 5743.03 of the Revised Code. 71309

Sec. 411.10. DVS DEPARTMENT OF VETERANS SERVICES 71310

General Revenue Fund 71311

GRF 900321	Veterans' Homes	\$ 27,369,946	\$ 27,369,946	71312
GRF 900402	Hall of Fame	\$ 107,075	\$ 107,075	71313
GRF 900408	Department of	\$ 1,901,823	1,901,823	71314
	Veterans Services		<u>2,001,823</u>	
GRF 900901	Persian Gulf,	\$ 5,486,600	\$ 10,112,100	71315
	Afghanistan, and Iraq			
	Compensation Debt			
	Service			
TOTAL GRF	General Revenue Fund	\$ 34,865,444	39,490,944	71316
			<u>39,590,944</u>	

General Services Fund Group 71317

4840 900603	Veterans' Homes	\$ 305,806	\$ 312,458	71318
	Services			
TOTAL GSF	General Services Fund	\$ 305,806	\$ 312,458	71319

Group

Federal Special Revenue Fund Group 71320

3680 900614	Veterans Training	\$ 769,500	\$ 754,377	71321
3740 900606	Troops to Teachers	\$ 136,786	\$ 133,461	71322
3BX0 900609	Medicare Services	\$ 2,500,000	\$ 2,490,169	71323
3L20 900601	Veterans' Homes	\$ 23,455,379	\$ 23,476,269	71324

Operations - Federal					
TOTAL FED Federal Special Revenue				71325	
Fund Group	\$	26,861,665	\$	26,854,276	71326
State Special Revenue Fund Group					71327
4E20 900602 Veterans' Homes	\$	10,117,680	\$	10,319,078	71328
Operating					
6040 900604 Veterans' Homes	\$	347,598	\$	398,731	71329
Improvement					
TOTAL SSR State Special Revenue					71330
Fund Group	\$	10,465,278	\$	10,717,809	71331
Persian Gulf, Afghanistan, and Iraq Compensation Fund Group					71332
7041 900615 Veteran Bonus Program	\$	1,605,410	\$	1,147,703	71333
- Administration					
7041 900641 Persian Gulf,	\$	25,425,000	\$	24,300,000	71334
Afghanistan, and Iraq					
Compensation					
TOTAL 041 Persian Gulf,					71335
Afghanistan, and Iraq					71336
Compensation Fund Group	\$	27,030,410	\$	25,447,703	71337
TOTAL ALL BUDGET FUND GROUPS	\$	99,528,603	\$	102,823,190	71338
				<u>102,923,190</u>	
PERSIAN GULF, AFGHANISTAN AND IRAQ COMPENSATION GENERAL					71339
OBLIGATION DEBT SERVICE					71340
The foregoing appropriation item 900901, Persian Gulf,					71341
Afghanistan and Iraq Compensation Debt Service, shall be used to					71342
pay all debt service and related financing costs during the period					71343
from July 1, 2011, through June 30, 2013, on obligations issued					71344
for Persian Gulf, Afghanistan and Iraq Conflicts Compensation					71345
purposes under sections 151.01 and 151.12 of the Revised Code.					71346
Sec. 415.10. DYS DEPARTMENT OF YOUTH SERVICES					71347
General Revenue Fund					71348

As Pending in the House Finance and Appropriations Committee (L# 2171-5)

GRF	470401	RECLAIM Ohio	\$	168,716,967	\$	162,362,228	71349
GRF	470412	Lease Rental Payments	\$	10,221,800	\$	27,230,100	71350
GRF	470510	Youth Services	\$	16,702,728	\$	16,702,728	71351
GRF	472321	Parole Operations	\$	10,830,019	\$	10,583,118	71352
GRF	477321	Administrative Operations	\$	12,222,051	\$	11,855,389	71353
TOTAL GRF	General Revenue Fund		\$	218,693,565	\$	228,733,563	71354
General Services Fund Group							71355
1750	470613	Education Reimbursement	\$	8,160,277	\$	8,151,056 <u>6,251,056</u>	71356
4790	470609	Employee Food Service	\$	150,000	\$	150,000	71357
4A20	470602	Child Support	\$	450,000	\$	400,000	71358
4G60	470605	General Operational Funds	\$	125,000	\$	125,000	71359
5BN0	470629	E-Rate Program	\$	535,000	\$	535,000	71360
TOTAL GSF	General Services Fund Group		\$	9,420,277	\$	9,361,056 <u>7,461,056</u>	71362
Federal Special Revenue Fund Group							71363
3210	470601	Education	\$	1,774,469	\$	1,517,840	71364
3210	470603	Juvenile Justice Prevention	\$	300,000	\$	300,000	71365
3210	470606	Nutrition	\$	1,747,432	\$	1,704,022 <u>1,400,000</u>	71366
3210	470610	Rehabilitation Programs	\$	36,000	\$	36,000 <u>0</u>	71367
3210	470614	Title IV-E Reimbursements	\$	6,000,000	\$	6,000,000	71368
3BY0	470635	Federal Juvenile Programs FFY 07	\$	56,471	\$	2,000	71369
3BZ0	470636	Federal Juvenile Programs FFY 08	\$	82,000	\$	1,618	71370

3CP0 470638	Federal Juvenile Programs FFY 09	\$	500,000	\$	300,730	71371
3CR0 470639	Federal Juvenile Programs FFY 10	\$	800,000	\$	479,900	71372
3FB0 470641	Federal Juvenile Programs FFY 11	\$	135,000	\$	600,000	71373
3FC0 470642	Federal Juvenile Programs FFY 12	\$	0	\$	135,000	71374
3V50 470604	Juvenile Justice/Delinquency Prevention	\$	2,010,000	\$	2,000,000	71375
TOTAL FED Federal Special Revenue Fund Group						71376
		\$	13,441,372	\$	13,077,110 <u>12,737,088</u>	71377
State Special Revenue Fund Group						71378
1470 470612	Vocational Education	\$	762,126	\$	758,210	71379
TOTAL SSR State Special Revenue Fund Group						71380
		\$	762,126	\$	758,210	71381
TOTAL ALL BUDGET FUND GROUPS						71382
		\$	242,317,340	\$	251,929,939 <u>249,689,917</u>	

COMMUNITY PROGRAMS

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For purposes of implementing juvenile sentencing reforms, and notwithstanding any provision of law to the contrary, the Department of Youth Services may use up to forty-five per cent of the unexpended, unencumbered balance of the portion of appropriation item 470401, RECLAIM Ohio, that is allocated to juvenile correctional facilities in each fiscal year to expand Targeted RECLAIM, the Behavioral Health Juvenile Justice Initiative, and other evidence-based community programs.

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OHIO BUILDING AUTHORITY LEASE PAYMENTS

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The foregoing appropriation item 470412, Lease Rental Payments, shall be used to meet all payments at the times they are

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required to be made for the period from July 1, 2011, through June 30, 2013, by the Department of Youth Services to the Ohio Building Authority under the leases and agreements for facilities made under Chapter 152. of the Revised Code. This appropriation is the source of funds pledged for bond service charges on related obligations issued pursuant to Chapter 152. of the Revised Code.

EDUCATION REIMBURSEMENT

The foregoing appropriation item 470613, Education Reimbursement, shall be used to fund the operating expenses of providing educational services to youth supervised by the Department of Youth Services. Operating expenses include, but are not limited to, teachers' salaries, maintenance costs, and educational equipment. This appropriation item may be used for capital expenses related to the education program.

EMPLOYEE FOOD SERVICE AND EQUIPMENT

Notwithstanding section 125.14 of the Revised Code, the foregoing appropriation item 470609, Employee Food Service, may be used to purchase any food operational items with funds received into the fund from reimbursements for state surplus property.

FLEXIBLE FUNDING FOR CHILDREN AND FAMILIES

In collaboration with the county family and children first council, the juvenile court of that county that receives allocations from one or both of the foregoing appropriation items 470401, RECLAIM Ohio, and 470510, Youth Services, may transfer portions of those allocations to a flexible funding pool as authorized by the section of ~~this act~~ Am. Sub. H.B. 153 of the 129th General Assembly titled "FAMILY AND CHILDREN FIRST FLEXIBLE FUNDING POOL."

Sec. 503.50. REAPPROPRIATION OF UNEXPENDED ENCUMBERED BALANCES OF OPERATING APPROPRIATIONS

(A) An unexpended balance of an operating appropriation or reappropriation that a state agency lawfully encumbered prior to the close of a fiscal year is hereby reappropriated on the first day of July of the following fiscal year from the fund from which it was originally appropriated or reappropriated for the following period and shall remain available only for the purpose of discharging the encumbrance:

(1) For an encumbrance for personal services, maintenance, equipment, or items for resale, other than an encumbrance for an item of special order manufacture not available on term contract or in the open market or for reclamation of land or oil and gas wells, for a period of not more than five months from the end of the fiscal year;

(2) For an encumbrance for an item of special order manufacture not available on term contract or in the open market, for a period of not more than five months from the end of the fiscal year or, with the written approval of the Director of Budget and Management, for a period of not more than twelve months from the end of the fiscal year;

(3) For an encumbrance for reclamation of land or oil and gas wells, for a period ending when the encumbered appropriation is expended or for a period of two years, whichever is less;

(4) For an encumbrance for any other expense, for such period as the Director approves, provided such period does not exceed two years.

(B) Any operating appropriations for which unexpended balances are reappropriated beyond a five-month period from the end of the fiscal year by division (A)(2) of this section shall be reported to the Controlling Board by the Director of Budget and Management by the thirty-first day of December of each year. The report on each such item shall include the item, the cost of the

item, and the name of the vendor. The report shall be updated on a 71456
quarterly basis for encumbrances remaining open. 71457

(C) Upon the expiration of the reappropriation period set out 71458
in division (A) of this section, a reappropriation made by this 71459
section lapses, and the Director of Budget and Management shall 71460
cancel the encumbrance of the unexpended reappropriation not later 71461
than the end of the weekend following the expiration of the 71462
reappropriation period. 71463

(D) Notwithstanding division (C) of this section, with the 71464
approval of the Director of Budget and Management, an unexpended 71465
balance of an encumbrance that was reappropriated on the first day 71466
of July by this section for a period specified in division (A)(3) 71467
or (4) of this section and that remains encumbered at the close of 71468
the fiscal biennium is hereby reappropriated on the first day of 71469
July of the following fiscal biennium from the fund from which it 71470
was originally appropriated or reappropriated for the applicable 71471
period specified in division (A)(3) or (4) of this section and 71472
shall remain available only for the purpose of discharging the 71473
encumbrance. 71474

(E) The Director of Budget and Management may correct 71475
accounting errors committed by the staff of the Office of Budget 71476
and Management, such as re-establishing encumbrances or 71477
appropriations cancelled in error, during the cancellation of 71478
operating encumbrances in November and of nonoperating 71479
encumbrances in December. 71480

(F) The Director of Budget and Management may at any time 71481
correct accounting errors committed by the staff of a state 71482
institution of higher education, as defined in section 3345.011 of 71483
the Revised Code, such as reestablishing prior year nonoperating 71484
encumbrances canceled or modified in error. The reestablished 71485
encumbrance amounts are hereby appropriated. 71486

(G) If the Controlling Board approved a purchase, that approval remains in effect so long as the appropriation used to make that purchase remains encumbered.

Sec. 521.70. OVERSIGHT OF FEDERAL STIMULUS FUNDS

(A) The Office of Internal Auditing within the Office of Budget and Management shall, in connection with its duties under sections 126.45 to 126.48 of the Revised Code, monitor and measure the effectiveness of funds allocated to the state as part of the federal American Recovery and Reinvestment Act of 2009. As such, the Office of Internal Auditing shall review how funds allocated to each state agency are spent. For purposes of this section, "state agency" has the same meaning as in division (A) of section 126.45 of the Revised Code.

In addition to the reports required under section 126.47 of the Revised Code, the Office of Internal Auditing shall ~~submit~~ prepare a report of its findings for the period beginning July 1, 2011, and ending December 31, 2011. The Office shall submit the report to the President of the Senate, Minority Leader of the Senate, Speaker of the House of Representatives, Minority Leader of the House of Representatives, and the Chairs of the committees in the Senate and House of Representatives handling finance and appropriations. ~~The report shall be submitted every six months at the following intervals:~~

~~(1) For the six month period ending December 31, 2011, not later than by February 1, 2012;~~

~~(2) For the six month period ending June 30, 2012, not later than August 1, 2012;~~

~~(3) For the six month period ending December 31, 2012, not later than February 1, 2013;~~

~~(4) For the six month period ending June 30, 2013, not later~~

than August 1, 2013. 71517

(B) When, as part of its compliance with the federal American 71518
Recovery and Reinvestment Act of 2009 requirements to monitor and 71519
measure the effectiveness of funds for which the state of Ohio is 71520
the prime recipient, and for which reporting authority has not 71521
been delegated to a ~~sub-recipient~~ subrecipient, the Office of 71522
Budget and Management submits quarterly reports to the federal 71523
government, the Office of Budget and Management shall also submit 71524
those reports to the President of the Senate, Minority Leader of 71525
the Senate, Speaker of the House of Representatives, Minority 71526
Leader of the House of Representatives, and Chairs and ranking 71527
members of the committees in the Senate and House of 71528
Representatives handling finance and appropriations. The Office of 71529
Budget and Management shall continue to submit quarterly reports 71530
to the legislature for the duration of the period in which the 71531
state of Ohio is required to make reports to the federal 71532
government concerning Ohio's use of the federal American Recovery 71533
and Reinvestment Act of 2009 funds. 71534

Sec. 701.40. (A) There is hereby created the Ohio Housing 71535
Study Committee with the purpose of formulating a comprehensive 71536
review of the policies and results of the Ohio Housing Finance 71537
Agency, its programs and its working relationships to ensure that 71538
all Agency programs are evaluated by an objective process to 71539
ensure all Ohioans receive optimal and measurable benefits 71540
afforded to them through the authority of the Agency. 71541

(B) The Committee shall do all of the following: 71542

(1) Perform a comprehensive review of Chapter 175. of the 71543
Revised Code to determine the relevance of the chapter and 71544
determine whether it should be formally reviewed or amended by the 71545
General Assembly, up to and including appropriate legislative 71546
oversight and accountability; 71547

(2) Review the Agency's relationships to ensure an equitable and level playing field regarding its single- and multi-family housing programs;

(3) Review the Agency's policy leadership and the measurable economic impact and other effects of its programs;

(4) Review the Agency's Qualified Allocation Plan development process and underlying policies to understand whether objective and measurable results are achieved to fulfill clearly articulated public policy goals;

(5) Create a quantitative report measuring the economic benefits of the Agency's single- and multi-family programming over the last ten years;

(6) Evaluate the possible efficiencies of combining existing Ohio Department of Development housing-related programming with those of the Agency.

The Chairperson of the Committee may include other relevant areas of study as necessary.

(C) The Committee shall commence on ~~the effective date of this act~~ September 29, 2011, and shall provide a report expressing its findings and financial, policy, or legislative recommendations to the Governor, the Speaker of the House of Representatives, and the President of the Senate on or before March 31, 2012. The Committee shall cease to exist on December 31, 2012.

(D) The Committee shall be comprised of the Auditor of State, or the Auditor's designee, the Director of Commerce, or the Director's designee, the Director of Development, or the Director's designee, and four members of the General Assembly. Two members shall be appointed by the Speaker of the House of Representatives and two members shall be appointed by the President of the Senate.

The Governor, Speaker of the House of Representatives, and 71578
the President of the Senate shall determine the chairperson of the 71579
Committee. 71580

(E) The Committee shall meet on a reasonable basis at the 71581
discretion of the chairperson. 71582

(F) All reasonable expenses incurred by the Committee in 71583
carrying out its responsibilities shall be paid by Ohio Housing 71584
Finance Agency funds. In addition to reasonable expenses, the 71585
Committee shall have the discretion to allocate Agency funds to 71586
contract with the Auditor of State for services rendered in 71587
relation to the Committee carrying out its responsibilities, 71588
including financial- and performance-based audits and other 71589
services. The Auditor of State may contract with an independent 71590
auditor. 71591

The Committee may also contract with other independent 71592
entities for services rendered in relation to the Committee 71593
carrying out its responsibilities. Expenditures to pay for the 71594
services of the Auditor of State, independent auditor, or other 71595
services shall not exceed two hundred thousand dollars. 71596

No entity contracting with the Committee for services 71597
rendered shall have a financial or vested interest in the Ohio 71598
Housing Finance Agency, its affiliates, or its nonprofit partners. 71599

Section 601.41. That existing Sections 205.10, 207.10, 71600
207.10.80, 207.20.10, 207.20.30, 207.20.90, 209.10, 209.20, 71601
211.10, 215.10, 215.20, 223.10, 229.10, 243.10, 261.10.40, 71602
261.10.70, 261.20.10, 261.20.40, 261.20.50, 261.20.60, 261.20.80, 71603
261.20.90, 261.30.10, 261.30.20, 261.30.30, 261.30.40, 261.30.60, 71604
261.30.70, 261.30.80, 261.30.90, 261.40.10, 263.10, 263.10.30, 71605
263.10.90, 263.20.40, 263.20.70, 267.10, 267.10.10, 267.10.20, 71606
267.10.40, 267.30.20, 267.30.40, 279.10, 291.10, 307.10, 309.10, 71607
309.30.30, 309.30.33, 309.35.73, 315.10, 327.10, 335.10, 337.10, 71608

343.10, 365.10, 367.10, 369.10, 371.10, 371.50.61, 371.60.80, 71609
373.10, 375.10, 379.10, 387.10, 403.10, 411.10, 415.10, 503.50, 71610
521.70, and 701.40 of Am. Sub. H.B. 153 of the 129th General 71611
Assembly are hereby repealed. 71612

Section 601.43. That Section 247.10 of Am. Sub. H.B. 153 of 71613
the 129th General Assembly, as amended by Sub. H.B. 319 of the 71614
129th General Assembly, be amended to read as follows: 71615

Sec. 247.10. CEB CONTROLLING BOARD 71616

General Revenue Fund 71617

GRF	911404	Mandate Assistance	\$	2,750,000	\$	0	71618
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GRF	911441	Ballot Advertising	\$	475,000	\$	475,000	71619
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Costs

TOTAL GRF General Revenue Fund	\$	3,225,000	\$	475,000	71620
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General Services Fund Group 71621

5KM0 911614	CB Emergency Purposes	\$	10,000,000	\$	10,000,000	71622
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TOTAL GSF General Services Fund	\$	10,000,000	\$	10,000,000	71623
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Group

TOTAL ALL BUDGET FUND GROUPS	\$	13,225,000	\$	10,475,000	71624
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FEDERAL SHARE 71625

In transferring appropriations to or from appropriation items 71626
that have federal shares identified in this act, the Controlling 71627
Board shall add or subtract corresponding amounts of federal 71628
matching funds at the percentages indicated by the state and 71629
federal division of the appropriations in this act. Such changes 71630
are hereby appropriated. 71631

REDISTRICTING IMPLEMENTATION 71632

The foregoing appropriation item 911404, Mandate Assistance, 71633
shall be used in a method prescribed by the Secretary of State and 71634
transferred by the Director of Budget and Management to implement 71635

this act, which includes remapping and reprecincting counties, and 71636
reprogramming database systems and voting machines. At the end of 71637
fiscal year 2012, an amount equal to the unexpended, unencumbered 71638
portion of appropriation item 911404, Mandate Assistance, is 71639
hereby reappropriated in fiscal year 2013 for the same purpose. 71640

DISASTER SERVICES 71641

Pursuant to requests submitted by the Department of Public 71642
Safety, the Controlling Board may approve transfers from the 71643
Disaster Services Fund (5E20) to a fund and appropriation item 71644
used by the Department of Public Safety to provide for assistance 71645
to political subdivisions made necessary by natural disasters or 71646
emergencies. These transfers may be requested and approved prior 71647
to the occurrence of any specific natural disasters or emergencies 71648
in order to facilitate the provision of timely assistance. The 71649
Emergency Management Agency of the Department of Public Safety 71650
shall use the funding to fund the State Disaster Relief Program 71651
for disasters that have been declared by the Governor, and the 71652
State Individual Assistance Program for disasters that have been 71653
declared by the Governor and the federal Small Business 71654
Administration. The Ohio Emergency Management Agency shall publish 71655
and make available application packets outlining procedures for 71656
the State Disaster Relief Program and the State Individual 71657
Assistance Program. 71658

Fund 5E20 shall be used by the Controlling Board, pursuant to 71659
requests submitted by state agencies, to transfer cash and 71660
appropriations to any fund and appropriation item for the payment 71661
of state agency disaster relief program expenses for disasters 71662
declared by the Governor, if the Director of Budget and Management 71663
determines that sufficient funds exist. 71664

Upon the request of the Department of Public Safety, the 71665
Controlling Board may release up to \$3,000,000 for Blanchard River 71666
flood mitigation projects. 71667

BALLOT ADVERTISING COSTS	71668
Pursuant to section 3501.17 of the Revised Code, and upon requests submitted by the Secretary of State, the Controlling Board shall approve transfers from the foregoing appropriation item 911441, Ballot Advertising Costs, to appropriation item 050621, Statewide Ballot Advertising, in order to pay for the cost of public notices associated with statewide ballot initiatives.	71669 71670 71671 71672 71673 71674
CAPITAL APPROPRIATION INCREASE FOR FEDERAL STIMULUS ELIGIBILITY	71675 71676
A state agency director shall request that the Controlling Board increase the amount of the agency's capital appropriations if the director determines such an increase is necessary for the agency to receive and use funds under the federal American Recovery and Reinvestment Act of 2009. The Controlling Board may increase the capital appropriations pursuant to the request up to the exact amount necessary under the federal act if the Board determines it is necessary for the agency to receive and use those federal funds.	71677 71678 71679 71680 71681 71682 71683 71684 71685
Section 601.44. That existing Section 247.10 of Am. Sub. H.B. 153 of the 129th General Assembly, as amended by Sub. H.B. 319 of the 129th General Assembly, is hereby repealed.	71686 71687 71688
Section 601.46. That Sections 261.10 and 261.20.93 of Am. Sub. H.B. 153 of the 129th General Assembly, as amended by Sub. H.B. 371 of the 129th General Assembly, be amended to read as follows:	71689 71690 71691 71692
Sec. 261.10. DEV DEPARTMENT OF DEVELOPMENT <u>SERVICES AGENCY</u>	71693
General Revenue Fund	71694
GRF 195401 Thomas Edison Program \$ 14,820,354 \$ 0	71695
GRF 195402 Coal Development \$ 260,983 \$ 261,205	71696

		<u>Office Research</u>				
		<u>Operating</u>				
GRF	195404	Small Business Development	\$	1,565,770	\$	0 71697
GRF	195405	Minority Business Enterprise Division	\$	1,118,528	\$	0 71698
GRF	195407	Travel and Tourism	\$	5,000,000	\$	0 <u>5,000,000</u> 71699
GRF	195412	Rapid Outreach Grants	\$	9,000,000	\$	0 71700
GRF	195415	Strategie Business Investment Division and Regional Offices <u>Development Services</u>	\$	4,500,000	\$	0 <u>2,413,387</u> 71701
GRF	195416	Governor's Office of Appalachia	\$	3,700,000	\$	3,700,000 <u>0</u> 71702
GRF	195422	Technology Action	\$	547,341	\$	0 71703
GRF	195426	Clean Ohio Implementation	\$	468,365	\$	0 <u>468,365</u> 71704
GRF	195432	Global Markets	\$	3,500,000	\$	0 71705
GRF	195434	Industrial Training Grants	\$	10,000,000	\$	0 71706
GRF	195497	CDBG Operating Match	\$	1,015,000	\$	0 <u>1,015,000</u> 71707
GRF	195501	Appalachian Local Development Districts	\$	391,482	\$	391,482 <u>0</u> 71708
GRF	195502	Appalachian Regional Commission Dues	\$	195,000	\$	195,000 <u>0</u> 71709
GRF	195528	Economic Development Projects	\$	0	\$	26,943,518 71710
GRF	<u>195530</u>	<u>Economic Gardening</u> Pilot Program	\$	<u>0</u>	\$	<u>250,000</u> 71711
GRF	<u>195532</u>	<u>Technology Programs</u> and Grants	\$	<u>0</u>	\$	<u>13,547,341</u> 71712
GRF	<u>195533</u>	<u>Business Assistance</u>	\$	<u>0</u>	\$	<u>5,899,465</u> 71713
GRF	<u>195535</u>	<u>Appalachia Assistance</u>	\$	<u>0</u>	\$	<u>4,286,482</u> 71714

GRF	195901	Coal Research & Development General Obligation Debt Service	\$	7,861,100	\$	5,577,700	71715
GRF	195905	Third Frontier Research & Development General Obligation Debt Service	\$	29,323,300	\$	63,640,300	71716
GRF	195912	Job Ready Site Development General Obligation Debt Service	\$	9,859,200	\$	15,680,500	71717
TOTAL GRF	General Revenue Fund		\$	103,126,423	\$	116,389,705 <u>118,039,745</u>	71718
General Services Fund Group							71719
1350	195684	Supportive <u>Development Services</u> <u>Operations</u>	\$	11,700,000	\$	11,700,000	71720
4W10	195646	Minority Business Enterprise Loan	\$	2,500,000	\$	2,500,000	71721
5AD0	195633	Legacy Projects	\$	15,000,000	\$	15,000,000 <u>18,600,000</u>	71722
5AD0	195677	Economic Development Contingency	\$	10,000,000	\$	0	71723
5W50	195690	Travel and Tourism Cooperative Projects	\$	50,000	\$	50,000	71724
6850	195636	Direct Cost Recovery <u>Development Services</u> <u>Reimbursable</u> Expenditures	\$	750,000	\$	750,000	71725
TOTAL GSF	General Services Fund						71726
Group			\$	40,000,000	\$	30,000,000	71727

					<u>33,600,000</u>		
		Federal Special Revenue Fund Group				71728	
3080	195602	Appalachian Regional Commission	\$	475,000	\$	475,000	71729
3080	195603	Housing and Urban Development <u>Assistance Programs</u>	\$	6,000,000	\$	6,000,000	71730
3080	195605	Federal Projects	\$	85,028,606	\$	85,470,106 0	71731
3080	195609	Small Business Administration <u>Grants</u>	\$	6,438,143	\$	5,511,381	71732
3080	195618	Energy Federal Grants	\$	38,000,000	\$	3,400,000	71733
<u>3080</u>	<u>195670</u>	<u>Home Weatherization</u> <u>Program</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>72,670,106</u>	71734
<u>3080</u>	<u>195671</u>	<u>Brownfield</u> <u>Redevelopment</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>6,800,000</u>	71735
<u>3080</u>	<u>195672</u>	<u>Manufacturing</u> <u>Extension Partnership</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>6,000,000</u>	71736
3350	195610	Energy Conservation and Emerging Technology <u>Programs</u>	\$	1,100,000	\$	1,100,000	71737
3AE0	195643	Workforce Development Initiatives	\$	16,300,000	\$	16,300,000	71738
3DB0	195642	Federal Stimulus - Energy Efficiency & Conservation Block Grants	\$	3,000,000	\$	42,485	71739
3EG0	195608	Federal Energy <u>Sector</u> Training <u>Grants</u>	\$	5,000,000	\$	1,344,056	71740
3K80	195613	Community Development Block Grant	\$	76,795,818	\$	65,210,000	71741
3K90	195611	Home Energy Assistance Block Grant	\$	115,743,608	\$	115,743,608	71742

As Pending in the House Finance and Appropriations Committee (L# 2171-5)

3K90	195614	HEAP Weatherization	\$	22,000,000	\$	22,000,000	71743
3L00	195612	Community Services	\$	27,240,217	\$	27,240,217	71744
		Block Grant					
3V10	195601	HOME Program	\$	40,000,000	\$	40,000,000	71745
TOTAL FED		Federal Special Revenue					71746
Fund Group			\$	443,121,392	\$	389,836,853	71747
State Special Revenue Fund Group							71748
4500	195624	Minority Business	\$	160,110	\$	159,069	71749
		Bonding Program					
		Administration					
4510	195625	Economic Development	\$	3,000,000	\$	3,000,000 0	71750
		Financing Operating					
<u>4510</u>	<u>195649</u>	<u>Business Assistance</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>3,700,800</u>	71751
		<u>Programs</u>					
4F20	195639	State Special Projects	\$	180,437	\$	180,436	71752
4F20	195676	Marketing Initiatives	\$	5,000,000	\$	0	71753
4F20	195699	Utility Provided Funds	\$	500,000	\$	500,000	71754
		<u>Community Assistance</u>					
4S00	195630	Tax Incentive Programs	\$	650,800	\$	650,800 0	71755
5CG0	195679	Alternative Fuel	\$	750,000	\$	750,000	71756
		Transportation					
5HJ0	195604	Motion Picture Tax	\$	50,000	\$	50,000 0	71757
		Credit Program					
5HR0	195526	Ohio <u>Incumbent</u>	\$	20,000,000	\$	30,000,000	71758
		Workforce Job Training					
		<u>Vouchers</u>					
5HR0	195622	Defense Development	\$	5,000,000	\$	5,000,000	71759
		Assistance					
<u>5JR0</u>	<u>195635</u>	<u>Redevelopment Program</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>100,000</u>	71760
		<u>Support</u>					
5JR0	195656	New Market Tax Credit	\$	50,000	\$	50,000 0	71761
		Program					
5KD0	195621	Brownfield Stormwater	\$	50,000	\$	50,000 0	71762

		Loan					
5KN0	195640	Local Government	\$	175,000	\$	44,825,000	71763
		Innovation					
<u>5LK0</u>	<u>195655</u>	<u>Workforce Development</u>	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>10,000,000</u>	71764
		<u>Programs</u>					
5M40	195659	Low Income Energy	\$	245,000,000	\$	245,000,000	71765
		Assistance (<u>USF</u>)					
5M50	195660	Advanced Energy <u>Loan</u>	\$	8,000,000	\$	0	71766
		Programs					
5W60	195691	International Trade	\$	160,000	\$	160,000	71767
		Cooperative Projects					
6170	195654	Volume Cap	\$	94,397	\$	92,768	71768
		Administration					
6460	195638	Low- and Moderate-	\$	53,000,000	\$	53,000,000	71769
		Income Housing Trust					
		Fund					
TOTAL SSR State Special Revenue							71770
Fund Group			\$	341,820,744	\$	383,468,073	71771
						<u>393,468,073</u>	
Facilities Establishment Fund Group							71772
5S90	195628	Capital Access Loan	\$	1,500,000	\$	1,500,000	71773
		Program					
7009	195664	Innovation Ohio	\$	15,000,000	\$	15,000,000	71774
7010	195665	Research and	\$	22,000,000	\$	22,000,000	71775
		Development					
7037	195615	Facilities	\$	50,000,000	\$	50,000,000	71776
		Establishment					
TOTAL 037 Facilities							71777
Establishment Fund Group			\$	88,500,000	\$	88,500,000	71778
Clean Ohio Revitalization Fund							71779
7003	195663	Clean Ohio Operating	\$	950,000	\$	950,000	71780
		<u>Program</u>					

TOTAL 7003 Clean Ohio	\$	950,000	\$	950,000	71781
Revitalization Fund					
Third Frontier Research & Development Fund Group					71782
7011 195686 Third Frontier	\$	1,149,750	\$	1,149,750	71783
Operating					
7011 195687 Third Frontier	\$	183,850,250	\$	133,850,250	71784
Research &					
Development Projects					
7014 195620 Third Frontier	\$	1,700,000	\$	1,700,000	71785
Operating - Tax					
7014 195692 Research &	\$	38,300,000	\$	38,300,000	71786
Development Taxable					
Bond Projects					
TOTAL 011 Third Frontier Research &	\$	225,000,000	\$	175,000,000	71787
Development Fund Group					
Job Ready Site Development Fund Group					71788
7012 195688 Job Ready Site	\$	800,000	\$	800,000	71789
<u>Operating Program</u>					
TOTAL 012 Job Ready Site	\$	800,000	\$	800,000	71790
Development Fund Group					
Tobacco Master Settlement Agreement Fund Group					71791
M087 195435 Biomedical Research	\$	1,999,224	\$	1,999,224	71792
and Technology					
Transfer					
TOTAL TSF Tobacco Master Settlement	\$	1,999,224	\$	1,999,224	71793
Agreement Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	1,245,317,783	\$	1,186,943,855	71794
				<u>1,202,193,895</u>	

Sec. 261.20.93. LOCAL GOVERNMENT INNOVATION FUND 71796

The foregoing appropriation item 195640, Local Government 71797

Innovation, shall be used for the purposes of making loans and 71798

grants to political subdivisions under the Local Government 71799
Innovation Program in accordance with sections 189.01 to 189.10 of 71800
the Revised Code. Of the foregoing appropriation item 195640, 71801
Local Government Innovation, up to \$175,000 in fiscal year 2012 71802
and \$175,000 in fiscal year 2013 shall be used for administrative 71803
costs incurred by the ~~Department of Development~~ Services Agency. 71804

On the effective date of this amendment, or as soon as 71805
possible thereafter, the Director of Budget and Management shall 71806
transfer \$175,000 in cash from the General Revenue Fund to the 71807
Local Government Innovation Fund (Fund 5KN0). On July 1, 2012, or 71808
as soon as possible thereafter, the Director of Budget and 71809
Management shall transfer \$44,825,000 in cash from the General 71810
Revenue Fund to the Local Government Innovation Fund (Fund 5KN0). 71811

Section 601.47. That existing Sections 261.10 and 261.20.93 71812
of Am. Sub. H.B. 153 of the 129th General Assembly, as amended by 71813
Sub. H.B. 371 of the 129th General Assembly, are hereby repealed. 71814

Section 601.50. That Section 4 of Sub. S.B. 171 of the 129th 71815
General Assembly be amended to read as follows: 71816

Sec. 4. The following agencies are retained under division 71817
(D) of section 101.83 of the Revised Code and expire on December 71818
31, 2016: 71819

AGENCY NAME	REVISED CODE OR UNCODIFIED SECTION	
Academic Distress Commission	3302.10	71821
Advisory Board of Governor's Office of Faith-Based and Community Initiatives	107.12	71822
Advisory Board to Assist and Advise in the Operation of the Ohio Center for Autism and Low Incidence	3323.33, 3323.34	71823

Advisory Council on Amusement Ride Safety	1711.51, 1711.52	71824
Advisory Council of Directors for Prison Labor	5145.162	71825
Advisory Council for Wild, Scenic, or Recreational River Area(s)	1547.84	71826
Advisory Committee on Livestock Exhibitions	901.71	71827
Agricultural Commodity Marketing Programs	924.07	71828
Operating Committees		
Agricultural Commodity Marketing Programs Coordinating Committee	924.14	71829
Alternative Energy Advisory Committee	4928.64(D)	71830
AMBER Alert Advisory Committee	5502.521	71831
Apprenticeship Council	Chapter 4139.	71832
Armory Board of Control	5911.09, 5911.12	71833
Automated Title Processing Board	4505.09(C)(1)	71834
Backflow Advisory Board	3703.21	71835
Banking Commission	1123.01	71836
Board of Directors of the Great Lakes Protection Fund	1506.22 (6161.04)	71837
Board of Directors of the Medical Liability Underwriting Association Stabilization Fund	3929.631	71838
Board of Directors of the Ohio Appalachian Center for Higher Education	3333.58	71839
Board of Directors of the Ohio Health Reinsurance Program	3924.08 - 3924.11	71840
Board of Governors of the Commercial Insurance Joint Underwriting Association	3930.03	71841
Board of Governors of the Medical Liability Underwriting Association	3929.64	71842
Board of Voting Machines Examiners	3506.05	71843
Budget Planning and Management Commission	Section 509.10, H.B. 1, 128th G.A.	71844
Brain Injury Advisory Committee	3304.231	71845

Bureau of Workers' Compensation Board of Directors	4121.12	71846
Capitol Square Review and Advisory Board	105.41	71847
Child Care Advisory Council	5104.08	71848
Child Support Guideline Advisory Council	3119.024	71849
Children's Trust Fund Board	3109.15 - 3109.17	71850
Citizen's Advisory Council	5123.092, 5123.093	71851
Clean Ohio Trail Advisory Board	1519.06	71852
Coastal Resources Advisory Council	1506.12	71853
Commission on African-American Males	4112.12, 4112.13	71854
Commission on Hispanic-Latino Affairs	121.31	71855
Commission on Minority Health	3701.78	71856
Committee on Prescriptive Governance	4723.49 - 4723.492	71857
Commodity Advisory Commission	926.32	71858
Consumer Advisory Committee to the Rehabilitation Services Commission	3304.24	71859
Continuing Education Committee	109.80(B)	71860
Council on Alcohol and Drug Addiction Services	3793.09	71861
Council on Unreclaimed Strip Mined Lands	1513.29	71862
County Sheriff's Standard Car Marking and Uniform Commission	311.25 - 311.27	71863
Credential Review Board	3319.65	71864
Credit Union Council	1733.329	71865
Criminal Sentencing Advisory Committee	181.22	71866
Data Collection and Analysis Group	3727.32	71867
Dentist Loan Repayment Advisory Board	3702.92	71868
Department Advisory Council(s)	107.18, 121.13	71869
Development Financing Advisory Council	122.40, 122.41	71870
Early Childhood Advisory Council	3301.90	71871
Education Commission of the States (Interstate	3301.48, 3301.49	71872

Compact for Education)		
Education Management Information System Advisory Board	3301.0713	71873
Educator Standards Board	3319.60	71874
Electrical Safety Inspector Advisory Committee	3783.08	71875
Emergency Response Commission	3750.02	71876
Engineering Experiment Station Advisory Committee	3335.27	71877
Environmental Education Council	3745.21	71878
Environmental Protection Agency Advisory Board(s)	121.13, 3704.03, 3745.01	71879
eTech Ohio Commission	3353.02 - 3353.04	71880
Ex-Offender Reentry Coalition	5120.07	71881
Farmland Preservation Advisory Board	901.23	71882
Financial Planning and Supervision Commission(s) for Municipal Corporation, County, or Township	118.05	71883
Financial Planning and Supervision Commission for a school district	3316.05	71884
Forestry Advisory Council	1503.40	71885
Governance Authority for a State University or College	3345.75	71886
Governor's Council on People with Disabilities	3303.41	71887
Governor's Policy Information Working Group	Section 313, H.B. 420, 127th G.A.	71888
Governor's Residence Advisory Commission	107.40	71889
Grain Marketing Program Operating Committee	924.20 - 924.30	71890
Great Lakes Commission (Great Lakes Basin Compact)	6161.01	71891
Gubernatorial Transition Committee	107.29, 126.26	71892
Help Me Grow Advisory Council	3701.611	71893
Hemophilia Advisory Subcommittee of the Medically Handicapped Children's Medical Advisory Council	3701.0210	71894

Homeland Security Advisory Council	5502.011(E)	71895
Hospital Measures Advisory Council	3727.31	71896
Housing Trust Fund Advisory Committee	174.06	71897
Industrial Commission Nominating Council	4121.04	71898
Industrial Technology and Enterprise Advisory Council	122.29, 122.30	71899
Infant Hearing Screening Subcommittee	3701.507	71900
Infection Control Group	3727.312(D)	71901
Insurance Agent Education Advisory Council	3905.483	71902
Interstate Rail Passenger Advisory Council	4981.35	71903
Joint Select Committee on Volume Cap	133.021	71904
Labor-Management Government Advisory Council	4121.70	71905
Legislative Programming Committee of the Ohio Government Telecommunications Service	3353.07	71906
Legislative Task Force on Redistricting, Reapportionment, and Demographic Research	103.51	71907
Maternity and Newborn Advisory Council	3711.20, 3711.21	71908
Medically Handicapped Children's Medical Advisory Council	3701.025	71909
Midwest Interstate Passenger Rail Compact Commission	4981.361	71910
Milk Sanitation Board	917.03 - 917.032	71911
Mine Subsidence Insurance Governing Board	3929.51	71912
Minority Development Financing Advisory Board	122.72, 122.73	71913
Multi-Agency Radio Communications System (MARCS) Steering Committee	Section 15.02, H.B. 640, 123rd G.A.	71914
National Museum of Afro-American History and Culture Planning Committee	149.303	71915
New African Immigrants Commission	4112.31, 4112.32	71916
Ohio Accountability Task Force	3302.021(E)	71917
Ohio Advisory Council for the Aging	173.03	71918
Ohio Agriculture License Plate Scholarship Fund	901.90	71919

Board

Ohio Arts Council	Chapter 3379.	71920
Ohio Business Gateway Steering Committee	5703.57	71921
Ohio Cemetery Dispute Resolution Commission	4767.05, 4767.06	71922
Ohio Civil Rights Commission Advisory Agencies and Conciliation Councils	4112.04(B)(4)	71923
Ohio Commercial Market Assistance Plan Executive Committee	3930.02	71924
Ohio Commission on Dispute Resolution and Conflict Management	179.02 - 179.04	71925
Ohio Commission on Fatherhood	5101.34	71926
Ohio Community Service Council	121.40 - 121.404	71927
Ohio Council for Interstate Adult Offender Supervision	5149.22	71928
Ohio Cultural Facilities Commission	Chapter 3383.	71929
Ohio Cystic Fibrosis Legislative Task Force	101.38	71930
Ohio Developmental Disabilities Council	5123.35	71931
Ohio Expositions Commission	991.02	71932
Ohio Family and Children First Cabinet Council	121.37	71933
Ohio Geographically Referenced Information Program Council	125.901, 125.902	71934
Ohio Geology Advisory Council	1501.11	71935
Ohio Grape Industries Committee	924.51 - 924.55	71936
Ohio Historic Site Preservation Advisory Board	149.301	71937
Ohio Historical Society Board of Trustees	149.30	71938
Ohio Judicial Conference	105.91 - 105.97	71939
Ohio Lake Erie Commission	1506.21	71940
Ohio Legislative Commission on the Education and Preservation of State History	Section 701.05, H.B. 1, 128th G.A.	71941
Ohio Medical Quality Foundation	3701.89	71942
Ohio Parks and Recreation Council	1541.40	71943
Ohio Peace Officer Training Commission	109.71, 109.72	71944

Ohio Private Investigation and Security Services Commission	4749.021, 4743.01	71945
Ohio Public Defender Commission	120.01 - 120.03	71946
Ohio Public Library Information Network Board of Trustees	3375.65, 3375.66	71947
Ohio Quarter Horse Development Commission	3769.086	71948
Ohio Small Government Capital Improvements Commission	164.02(C)(D)	71949
Ohio Soil and Water Conservation Commission	1515.02	71950
Ohio Standardbred Development Commission	3769.085	71951
Ohio Subrogation Rights Commission	2323.44	71952
Ohio Thoroughbred Racing Advisory Committee	3769.084	71953
Ohio Transportation Finance Commission	5531.12(B) to (D)	71954
Ohio Tuition Trust Authority	3334.03, 3334.08	71955
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10, 3337.11	71956
Ohio Vendors Representative Committee	3304.34, 20 USC 107	71957
Ohio War Orphans Scholarship Board	5910.02 - 5910.06	71958
Ohio Water Advisory Council	1521.031	71959
Ohio Water Resources Council Advisory Group	1521.19	71960
Ohio Water Resources Council	1521.19	71961
Oil and Gas Commission	1509.35	71962
Operating Committee of the Oil and Gas Marketing Program	1510.06, 1510.11	71963
Organized Crime Investigations Commission	177.01	71964
Pharmacy and Therapeutics Committee of the Department of Job and Family Services	5111.084	71965
Physician Assistant Policy Committee of the State Medical Board	4730.05, 4730.06	71966
Physician Loan Repayment Advisory Board	3702.81	71967

Power Siting Board	4906.02	71968
Prequalification Review Board	5525.07	71969
Private Water Systems Advisory Council	3701.346	71970
Public Health Council	3701.33, 3701.34	71971
Public Utilities Commission Nominating Council	4901.021	71972
Public Utility Property Tax Study Committee	5727.85(K)	71973
Radiation Advisory Council	3748.20	71974
Reclamation Commission	1513.05	71975
Reclamation Forfeiture Fund Advisory Board	1513.182	71976
Recreation and Resources Commission	1501.04	71977
Recycling and Litter Prevention Advisory Council	1502.04	71978
School and Ministerial Lands Divestiture Committee	501.041	71979
Savings and Loan Associations and Savings Banks Board	1181.16	71980
Second Chance Trust Fund Advisory Committee	2108.35	71981
Service Coordination Workgroup	Section 751.20, H.B. 1, 128th G.A.	71982
Ski Tramway Board	4169.02	71983
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19	71984
Solid Waste Management Advisory Council	3734.51	71985
Special Commission to Consider the Suspension of Local Government Officials	3.16	71986
Speed to Scale Task Force	Section 375.60.80, H.B. 119, 128th G.A.	71987
State Agency Coordinating Group	1521.19	71988
State Audit Committee	126.46	71989
State Council of Uniform State Laws	105.21 - 105.27	71990
State Criminal Sentencing Commission	181.22 - 181.26	71991
State Fire Council	3737.81	71992

State Library Board	3375.01	71993
State Victims Assistance Advisory Council	109.91(B) and (C)	71994
Statewide Consortium of County Law Library Resource Boards	3375.481	71995
STEM Committee	3326.02	71996
Student Tuition Recovery Authority	3332.081	71997
Sunset Review Committee	101.84 - 101.87	71998
Tax Credit Authority	122.17(M)	71999
Technical Advisory Committee to Assist Director of the Ohio Coal Development Office	1551.35	72000
Technical Advisory Council on Oil and Gas	1509.38	72001
Transportation Review Advisory Council	5512.07 - 5512.09	72002
Unemployment Compensation Advisory Council	4141.08	72003
Unemployment Compensation Review Commission	4141.06	72004
Veterans Advisory Committee	5902.02(K)	72005
Volunteer Fire Fighters' Dependents Fund Boards (private volunteer)	146.02 - 146.06	72006
Volunteer Fire Fighters' Dependents Fund Boards (public)	146.02 - 146.06	72007
Water and Sewer Commission	1525.11(C)	72008
Waterways Safety Council	1547.73	72009
Wildlife Council	1531.03 - 1531.05	72010
Workers' Compensation Board of Directors Nominating Committee	4121.123	72011

Section 601.51. That existing Section 4 of Sub. S.B. 171 of the 129th General Assembly is hereby repealed. 72012
72013

Section 610.10. That Section 3 of Am. Sub. S.B. 160 of the 121st General Assembly be amended to read as follows: 72014
72015

Sec. 3. Sections 109.57, 109.572, 2950.08, and 2953.32, and 72016
~~3701.881~~ of the Revised Code, as amended by ~~this act~~ Am. Sub. S.B. 72017
160 of the 121st General Assembly regarding employment of persons 72018
who provide direct care to older adults, and sections ~~173.41,~~ 72019
3712.09, 3721.121, and 3722.151 of the Revised Code, as enacted by 72020
~~this act~~ Am. Sub. S.B. 160 of the 121st General Assembly, apply 72021
only to persons who apply for employment on or after ~~the effective~~ 72022
~~date of this act~~ January 27, 1997. 72023

Section 610.11. That existing Section 3 of Am. Sub. S.B. 160 72024
of the 121st General Assembly is hereby repealed. 72025

Section 620.10. That Section 3 of Am. Sub. S.B. 38 of the 72026
120th General Assembly be amended to read as follows: 72027

Sec. 3. Sections 3301.54, and 5104.09, ~~and 5126.28~~ of the 72028
Revised Code, as amended by ~~this act~~ Am. Sub. S.B. 38 of the 120th 72029
General Assembly, and sections 109.572, 2151.86, 3301.32, 72030
3301.541, ~~3319.311~~ 3319.39, ~~3701.881,~~ 5104.012, 5104.013, and 72031
5153.111 of the Revised Code, as enacted by ~~this act~~ Am. Sub. S.B. 72032
38 of the 120th General Assembly, apply only to persons who apply 72033
for employment for a position on or after ~~the effective date of~~ 72034
~~this act~~ October 29, 1993. 72035

Section 620.11. That existing Section 3 of Am. Sub. S.B. 38 72036
of the 120th General Assembly is hereby repealed. 72037

Section 650.10. That Section 263.10.80 of Am. Sub. H.B. 153 72038
of the 129th General Assembly is hereby repealed. 72039

Section 701.10.10. OHIO STATEHOUSE SAFETY AND SECURITY STUDY 72040

The Department of Public Safety shall conduct a study of the 72041
safety and security of the Ohio Statehouse complex. The study 72042

shall include recommendations for improving the security protocols 72043
while providing for the health, safety, and convenience of those 72044
who work in, or visit, the statehouse. The report shall be 72045
submitted to the Capitol Square Review and Advisory Board for 72046
adoption not later than December 1, 2012. 72047

Section 701.20. As used in this section, "political 72048
subdivision" has the meaning defined in section 2744.01 of the 72049
Revised Code. 72050

The Auditor of State shall establish, operate, and maintain 72051
one or more web sites to serve as an online clearinghouse of 72052
information about existing joint purchasing programs between or 72053
among political subdivisions in the state, streamlining government 72054
operations, collaboration, and shared services to reduce the cost 72055
of government in this state. The web site may be developed by the 72056
Auditor of State or through the use of outside vendors. Existing 72057
web sites may be used if their content conforms to the 72058
requirements of this section. In establishing, maintaining, and 72059
operating the online clearinghouse web site, the Auditor of State 72060
shall: 72061

(A) Use a domain name for the web site that will be easily 72062
recognized, remembered, and understood by the users of the web 72063
site; 72064

(B) Maintain the web site so that it is fully accessible to 72065
and searchable by members of the public at all times; 72066

(C) Not charge a fee to a person who accesses, searches, or 72067
otherwise uses the web site; 72068

(D) Compile information provided by political subdivisions 72069
about joint purchasing arrangements they are involved in that the 72070
Auditor of State verifies, through meetings with various statewide 72071
associations and others, to have resulted in verifiable cost 72072

savings, and consolidate that information on the web site in a 72073
consistent manner and compile information provided by political 72074
subdivisions that includes savings recommendations from 72075
performance audits, examples of shared services among communities, 72076
shared services agreements to use as templates, and other tools 72077
developed independently by the Auditor of State or requested by 72078
political subdivisions and agreed to by the Auditor of State; 72079

(E) Enable political subdivisions to register and request 72080
inclusion of their submitted information on the web site, as well 72081
as to report state and local barriers to collaboration; 72082

(F) Enable information to be accessed by key word, by program 72083
name, by county, by type of product or service, and by other 72084
useful identifiers; 72085

(G) Maintain adequate systemic security and back-up features, 72086
and develop and maintain a contingency plan for coping with and 72087
recovering from power outages, systemic failures, and other 72088
unforeseen difficulties; and 72089

(H) Maintain the web site in such a manner that it will not 72090
infringe legally protected interests, so that vulnerability of the 72091
web site to interruption because of litigation or the threat of 72092
litigation is reduced. 72093

The Auditor of State shall bear the expense of establishing, 72094
operating, and maintaining the online clearinghouse web site. 72095

Section 701.41. The Department of Administrative Services 72096
shall analyze opportunities to reduce travel expenses through 72097
teleconferencing and web conferencing within state government. The 72098
Department shall assess current teleconferencing capabilities 72099
within state government operations, research industry standards 72100
and best practices, and make recommendations that will optimize 72101
the use of these technologies. Not later than December 31, 2012, 72102

the Department of Administrative Services shall produce a report 72103
with its findings and shall deliver the report to the Speaker and 72104
Minority Leader of the House of Representatives, the President and 72105
Minority Leader of the Senate, and the Governor. 72106

Section 701.50. MARCS STEERING COMMITTEE AND STATEWIDE 72107
COMMUNICATIONS SYSTEM 72108

There is hereby created a Multi-Agency Radio Communications 72109
System (MARCS) Steering Committee consisting of the designees of 72110
the Directors of Administrative Services, Public Safety, Natural 72111
Resources, Transportation, Rehabilitation and Correction, and 72112
Budget and Management, and the State Fire Marshal or the State 72113
Fire Marshal's designee. The Director of Administrative Services 72114
or the Director's designee shall chair the Committee. The 72115
Committee shall provide assistance to the Director of 72116
Administrative Services for effective and efficient implementation 72117
of the MARCS system as well as develop policies for the ongoing 72118
management of the system. Upon dates prescribed by the Directors 72119
of Administrative Services and Budget and Management, the MARCS 72120
Steering Committee shall report to the Directors on the progress 72121
of MARCS implementation and the development of policies related to 72122
the system. 72123

Section 701.60. As used in this section, "business day" means 72124
a day of the week, excluding Saturday, Sunday, or a legal holiday 72125
as defined in section 1.14 of the Revised Code. 72126

Any regional council of governments that was formed and is 72127
operating before the effective date of the amendment by this act 72128
of section 167.04 of the Revised Code shall notify the Auditor of 72129
State of its existence within 30 business days after the effective 72130
date of that amendment, and shall provide on a form prescribed by 72131
the Auditor of State the information required under that section. 72132

The Auditor of State shall review the information and, within one 72133
year after the effective date of that amendment, shall issue a 72134
report to the Governor and the General Assembly. The report shall 72135
address how many regional councils of governments are operating 72136
under Chapter 167. of the Revised Code, whether those regional 72137
councils continue to meet the objectives for which regional 72138
councils were first authorized in 1967, and whether regional 72139
councils are an efficient and effective way for local governments 72140
to share services or to participate in cooperative arrangements. 72141

Section 701.70.10. (A) The construction and energy operations 72142
of the Office of the State Architect and Engineer (OSAE) under 72143
Chapters 123. and 153. are transferred and consolidated into the 72144
construction and capital funding operations of the Ohio Facilities 72145
Construction Commission (OFCC). And the Ohio School Facilities 72146
Commission (OSFC) becomes an independent agency within the Ohio 72147
Facilities Construction Commission. Notwithstanding Chapter 153. 72148
of the Revised Code, the OFCC is thereupon and thereafter 72149
successor to, assumes the power and obligations of, and otherwise 72150
constitutes the continuation of the construction and energy 72151
operations and related management functions of the OSAE as 72152
provided in the applicable sections of Chapter 153. of the Revised 72153
Code or in any agreements relating to capital expenditures for 72154
construction operations functions to which the OSAE is a party. 72155
All statutory references to the OSAE are deemed to be references 72156
to the OFCC. 72157

(B) Any activities relating to the operations and related 72158
management functions commenced but not completed by the OSAE shall 72159
be completed by the OFCC in the same manner and with the same 72160
effect as if completed by the OSAE. No validation, cure, right, 72161
privilege, remedy, obligation, or liability is lost or impaired by 72162
reason of the consolidation, and shall be administered by the 72163
OFCC. All rules, orders, and determinations related to design, 72164

planning, and construction and energy operations and related 72165
management functions of the OSAE continue in effect as rules, 72166
orders, and determinations of the OFCC, until modified or 72167
rescinded by the OFCC. The Director of the Legislative Service 72168
Commission shall renumber the OSAE rules related to the design, 72169
planning, and construction and energy operations and related 72170
management functions to reflect their transfer to the OFCC. 72171

(C) To the extent possible, all employees of the OSAE shall 72172
be transferred to the OFCC, as the OFCC determines to be necessary 72173
for the successful implementation of this section. All employees 72174
of the OSFC shall remain in their current classifications unless 72175
the OFCC determines otherwise. 72176

(D) No judicial or administrative action or proceeding, to 72177
which the OSAE or an authorized officer of either is a party, that 72178
is pending on the effective date of this section, or on such later 72179
date as may be established by an authorized officer of the OFCC 72180
and that is related to its construction, capital funding, or 72181
energy operation or related management functions, is affected by 72182
the transfer and consolidation of functions. Any such action or 72183
proceeding shall be prosecuted or defended in the name of the 72184
OFCC. On application to the court or agency, the OFCC shall be 72185
substituted for the OSAE or an authorized officer of either as a 72186
party to the action or proceeding. 72187

(E) Notwithstanding any provision of the law to the contrary, 72188
and not sooner than 90 days after the effective date of this 72189
section, and if requested by the OFCC, the Director of Budget and 72190
Management shall make budget changes made necessary by the 72191
transfer, if any, including administrative organization, program 72192
transfers, the creation of new funds, the transfer of state funds, 72193
and the consolidation of funds, as authorized by this section. The 72194
Director of Budget and Management may, if necessary, establish 72195
encumbrances or parts of encumbrances created in fiscal years 2012 72196

and 2013 in the appropriate fund and appropriation item for the 72197
same purpose and for payment to the same vendor in fiscal year 72198
2013. The established encumbrances plus any additional amounts 72199
determined to be necessary for the OFCC to perform the 72200
construction, energy, and capital funding operation and related 72201
management functions of the OSAE are hereby appropriated. 72202

(F) Not later than 30 days after the transfer and 72203
consolidation of the construction, energy, and capital funding 72204
operations and related management functions of the OSAE to the 72205
OFCC, an authorized officer of the OSAE shall certify to the OFCC 72206
the unexpended balance and location of any funds and accounts 72207
designated for building and facility operation and management 72208
functions, and the custody of such funds and accounts shall be 72209
transferred to the OFCC. 72210

(G) The OFCC and the Department of Natural Resources (DNR) 72211
shall cooperate in a study to determine which operation functions, 72212
if any, of the DNR Division of Engineering should be integrated 72213
and consolidated into the OFCC. The study shall be completed not 72214
later than December 31, 2012. 72215

Section 701.70.20. The Division of Labor in the Department of 72216
Commerce is hereby renamed the Division of Industrial Compliance 72217
on the effective date of section 121.04 of the Revised Code, as 72218
amended by this act. The Division and the Superintendent of 72219
Industrial Compliance shall have and perform all the duties, 72220
powers, and obligations of the Division and Superintendent of 72221
Labor. All rules, actions, determinations, commitments, 72222
resolutions, decisions, and agreements pertaining to the duties, 72223
powers, obligations, functions, and rights of the Division or 72224
Superintendent of Labor, in force or in effect on the effective 72225
date of section 121.04 of the Revised Code, as amended by this 72226
act, shall continue in force and effect and apply to the Division 72227

or Superintendent of Industrial Compliance as applicable and 72228
subject to any further lawful action thereon by the Division or 72229
Superintendent of Industrial Compliance. Wherever the 72230
Superintendent of Labor or Division of Labor are referred to in 72231
any provision of law, or in any agreement or document that 72232
pertains to those duties, powers, obligations, functions, and 72233
rights, the reference is to the Superintendent of Industrial 72234
Compliance or Division of Industrial Compliance, as appropriate. 72235

All authorized obligations and supplements thereto of the 72236
Superintendent and Division of Labor are binding on the 72237
Superintendent or Division of Industrial Compliance and nothing in 72238
this act impairs those obligations or rights or the obligations or 72239
rights under any contract. The renaming of the Division of Labor 72240
and Superintendent of Labor does not affect the validity of 72241
agreements or obligations made by that superintendent or division 72242
pursuant to Chapters 121., 3703., 3781., 3791., 4104., 4105., and 72243
4740. of the Revised Code or any other provisions of law. 72244

In connection with the renaming of the Division of Labor, all 72245
real property and interest therein, documents, books, money, 72246
papers, records, machinery, furnishings, office equipment, 72247
furniture, and all other property over which the Superintendent 72248
and Division of Labor have control and the rights of the 72249
Superintendent and Division of Labor to enforce or receive any of 72250
those is automatically transferred to the Superintendent and 72251
Division of Industrial Compliance without necessity for further 72252
action on the part of the Superintendent or Division of Industrial 72253
Compliance, or the Director of Commerce. Additionally, all 72254
appropriations or reappropriations made to the Superintendent and 72255
Division of Labor for the purposes of the performance of their 72256
duties, powers, and obligations, are transferred to the 72257
Superintendent and Division of Industrial Compliance to the extent 72258
of the remaining unexpended or unencumbered balance thereof, 72259

whether allocated or unallocated, and whether obligated or 72260
unobligated. 72261

Section 701.80. There is hereby created the Compressed 72262
Natural Gas Study Committee to examine the use of compressed 72263
natural gas in the motor vehicle fleets of the state and political 72264
subdivisions. The Committee shall consist of the following seven 72265
members: two members of the Ohio Senate appointed by the President 72266
of the Senate, both of whom shall be of different political 72267
parties; two members of the Ohio House of Representatives 72268
appointed by the Speaker of the House of Representatives, both of 72269
whom shall be of different political parties; one person appointed 72270
by the Governor who is an Ohio resident and has knowledge of or 72271
experience in the use of alternative motor vehicle fuels; the 72272
Director of Administrative Services or the Director's designee; 72273
and the Director of Transportation, or the Director's designee. 72274
The initial appointments to the Committee shall be made not later 72275
than thirty days after the effective date of this section. If a 72276
member of the Committee who is a member of the Ohio Senate or Ohio 72277
House of Representatives ceases to be a member of the Ohio Senate 72278
or Ohio House of Representatives, that person shall cease to be a 72279
member of the Committee. A vacancy on the Committee shall be 72280
filled in the same manner as the original appointment. 72281

The Committee shall select from among its members a 72282
chairperson, a vice-chairperson, and a secretary. Members of the 72283
Committee shall serve without compensation but shall be reimbursed 72284
for their actual and necessary expenses incurred in the 72285
performance of their duties. 72286

The Committee shall examine the feasibility, budgetary 72287
effect, and return on investment from the use of compressed 72288
natural gas in the motor vehicle fleets of the state and political 72289
subdivisions, including transit fleets operated under Chapter 306. 72290

of the Revised Code. In examining the potential return on 72291
investment, the Committee shall consider the impact of converting 72292
all or part of the different motor vehicle fleets over a period of 72293
two to four years and shall develop various proposals for funding 72294
the conversion of the motor vehicle fleets. The Committee shall 72295
utilize any information collected by the Department of 72296
Administrative Services as part of its fleet management and 72297
requirements concerning use of alternative fuels under sections 72298
125.83 to 125.838 of the Revised Code. The Committee may conduct 72299
public hearings and may hire such consultants or experts and other 72300
persons as the Committee considers necessary to allow the 72301
Committee to fulfill its duties under this act. 72302

Not later than six months after the last initial appointment 72303
is made to the Committee, the Committee shall issue a report on 72304
its findings and recommendations on using compressed natural gas 72305
to fuel the motor vehicle fleets of the state and political 72306
subdivisions, including any recommendation for funding the 72307
conversion to compressed natural gas. The Committee shall furnish 72308
copies of its report to the Governor, the Ohio Senate, and the 72309
Ohio House of Representatives. Upon issuing its report, the 72310
Committee shall cease to exist. 72311

As used in this section, "political subdivision" means a 72312
county, township, municipal corporation, or any other body 72313
corporate and politic that is responsible for government 72314
activities in a geographic area smaller than that of the state. 72315

Section 701.90. (A) As used in this section: 72316

(1) "Eligible business" means a for-profit business 72317
association that has at least six employees but not more than 72318
ninety-nine employees and that has maintained its principal place 72319
of business in the state for at least a two-year period ending on 72320
the date the business applies for assistance under this section. 72321

The business must generate at least seven hundred fifty thousand 72322
dollars but not more than twenty-five million dollars in annual 72323
revenue and must have increased both its number of full-time 72324
equivalent employees in this state and its gross revenue during at 72325
least three of the five years preceding the date of application. 72326

(2) "Full-time equivalent employee" means the quotient 72327
obtained by dividing the total number of hours for which an 72328
eligible business employs employees during a year by two thousand 72329
eighty. 72330

(B) There is hereby created in the department of development 72331
the economic gardening technical assistance pilot program. The 72332
director of development may contract or coordinate with one or 72333
more persons to aid in the administration and operation of the 72334
program. 72335

The director shall provide technical assistance to eligible 72336
businesses, including, but not limited to, access to information 72337
and market intelligence services, including information on 72338
markets, customers, and competitors, such as business databases, 72339
geographic information systems, search engine marketing, and 72340
business connection development encouraging interaction and 72341
exchange among business owners and resource providers such as 72342
trade associations, academic institutions, business advocacy 72343
organizations, peer-based learning sessions, and mentoring 72344
programs. The director, through the program, is authorized to 72345
promote the general business and industrial interests of the 72346
state. 72347

(C)(1) The director, in selecting eligible businesses to 72348
assist, shall select businesses in more than one industry 72349
classification and, to the extent practicable, shall choose 72350
businesses that are geographically distributed throughout the 72351
state. 72352

(2) A business receiving assistance under the program must enter into an agreement with the director to establish the business's commitment to participate in the program. The agreement must require, at a minimum, that the business do all of the following:

(a) Attend the number of meetings between the business and the director or another person designated by the director as prescribed in the agreement;

(b) Report job creation data in the manner prescribed by the director;

(c) Provide financial data in the manner prescribed by the director.

The director may prescribe in the agreement additional reporting requirements as are necessary to document the progress of the business and monitor the business's implementation of the assistance.

(D) On or before one year after the effective date of the enactment of this section by Sub. H.B. 487 of the 129th General Assembly, the director of development shall make available on the department of development's web site a report that includes, at a minimum, the number of businesses receiving assistance under this section, the number of full-time equivalent employees created as a result of the assistance, the total amount of compensation paid to such employees, and the locations and types of business conducted by the businesses. The report shall also evaluate the effectiveness of the economic gardening technical assistance pilot program and recommend any changes to be made to the program. The report shall be submitted to the governor, the speaker and minority leader of the house of representatives, and the majority leader and minority leader of the senate.

(E) The director of development shall adopt rules in

accordance with Chapter 119. of the Revised Code that are 72384
necessary for the administration of the economic gardening 72385
technical assistance pilot program. 72386

Section 701.91. Section 701.90 of this act is hereby 72387
repealed, effective two years after the effective date of that 72388
section. 72389

Section 707.10. For fiscal years 2013 and 2014, the 72390
legislative authority of a municipal corporation in a county, with 72391
a population between three hundred seventy-five thousand and four 72392
hundred thousand according to the most recent federal decennial 72393
census, may conduct a pilot program whereby the legislative 72394
authority may use up to five per cent of the aggregate amount of 72395
money deposited in the municipal corporation's sewer fund and up 72396
to five per cent of the aggregate amount of money deposited in a 72397
fund created by the municipal corporation for water-works for the 72398
purpose of extending the municipal corporation's water or sewerage 72399
system, as applicable, if both of the following apply: 72400

(A) The water or sewerage system is being extended to areas 72401
for economic development purposes. 72402

(B) The areas into which the water or sewerage system is 72403
being extended are the subject of a cooperative economic 72404
development agreement entered into by the municipal corporation 72405
under section 701.07 of the Revised Code. 72406

With regard to either fund, the legislative authority shall 72407
not exceed the five per cent limit established in this section. 72408

Section 733.10. (A) This section applies to a state 72409
university, as defined in section 3345.011 of the Revised Code, 72410
that has a main campus subsidy-eligible undergraduate enrollment 72411
of more than 17,000 but less than 22,000 students for fiscal year 72412

2012. 72413

(B) Notwithstanding section 3313.41 of the Revised Code, when 72414
a school district board of education decides to dispose of real 72415
property that the board owns in its corporate capacity, exceeds in 72416
value ten thousand dollars, and is located within one hundred 72417
yards of any classroom or administrative building on the main 72418
campus of the state university as described in division (A) of 72419
this section, prior to offering that property for sale under 72420
divisions (A) to (G) of section 3313.41 of the Revised Code, the 72421
board may offer that property to the board of trustees of the 72422
state university in either or both of the following manners: 72423

(1) In an "as is" condition in return for an agreement 72424
between the board of trustees and the school district board, under 72425
which the university will provide the school district with in-kind 72426
services, educational programs, or other assistance valued in the 72427
aggregate in an amount reasonably related to the appraised fair 72428
market value of the property; 72429

(2) For sale for money at a price that is not higher than the 72430
appraised fair market value of that property. 72431

(C) If the board of trustees does not accept either offer, or 72432
if the agreement is not entered into between the school district 72433
board and the board of trustees, within sixty days after the offer 72434
is made by the district board, the district board then shall offer 72435
the property for sale as provided in division (G) of section 72436
3313.41 of the Revised Code. 72437

(D) This section expires on December 31, 2012. 72438

Section 737.10. ABOLISHMENT OF THE PUBLIC HEALTH COUNCIL 72439

On the effective date of this section, the Public Health 72440
Council is abolished and the responsibilities of the Public Health 72441
Council are transferred to the Director of Health. 72442

Any business before the Public Health Council commenced but 72443
not completed before the effective date of this section shall be 72444
completed by the Director of Health. The business shall be 72445
completed in the same manner, and with the same effect, as if 72446
completed by the Director of Health immediately prior to the 72447
effective date of this section. 72448

No validation, cure, right, privilege, remedy, obligation, or 72449
liability is lost or impaired by reason of this act's abolishment 72450
of the Public Health Council and transfer of responsibility to the 72451
Director of Health. Each such validation, cure, right, privilege, 72452
remedy, obligation, or liability shall be administered by the 72453
Director of Health. 72454

All rules, orders, and determinations of the Public Health 72455
Council adopted or made immediately prior to the effective date of 72456
this section shall continue in effect as rules, orders, and 72457
determinations of the Director of Health until modified or 72458
rescinded by the Director of Health. If necessary to ensure the 72459
integrity of the numbering system of the Administrative Code, the 72460
Director of the Legislative Service Commission shall renumber the 72461
rules to reflect the transfer of the Public Health Council's 72462
responsibilities to the Director of Health. 72463

Any action or proceeding that is related to the functions or 72464
duties of the Public Health Council pending on the effective date 72465
of this section is not affected by the transfer and shall be 72466
prosecuted or defended in the name of the Director of Health. In 72467
all such actions and proceedings, the Director of Health, on 72468
application to the court, shall be substituted as a party. 72469

Section 737.20. (A) On the effective date of the amendment of 72470
the statutes governing the Division of Recycling and Litter 72471
Prevention in the Department of Natural Resources by this act or 72472
on July 1, 2012, whichever is later, the Division of Recycling and 72473

Litter Prevention is abolished, and all of its functions, together 72474
with its assets and liabilities, are transferred from within the 72475
Department of Natural Resources to within the Environmental 72476
Protection Agency. 72477

(B) Any business commenced but not completed by the Division 72478
of Recycling and Litter Prevention in the Department of Natural 72479
Resources on the effective date of the transfer shall be completed 72480
by the Environmental Protection Agency. Any validation, cure, 72481
right, privilege, remedy, obligation, or liability is not lost or 72482
impaired solely by reason of the transfer required by this section 72483
and shall be administered by the Environmental Protection Agency 72484
in accordance with this act. 72485

(C) All of the rules, orders, and determinations of the 72486
Division of Recycling and Litter Prevention in the Department of 72487
Natural Resources or of the Department of Natural Resources in 72488
relation to that Division continue in effect as rules, orders, and 72489
determinations of the Environmental Protection Agency until 72490
modified or rescinded by the Environmental Protection Agency. If 72491
necessary to ensure the integrity of the numbering of the 72492
Administrative Code, the Director of the Legislative Service 72493
Commission shall renumber rules of the Department of Natural 72494
Resources in relation to the former Division of Recycling and 72495
Litter Prevention in that Department to reflect the transfer to 72496
the Environmental Protection Agency. 72497

(D) Subject to the provisions of the applicable bargaining 72498
unit agreements, all of the positions of the Division of Recycling 72499
and Litter Prevention in the Department of Natural Resources are 72500
transferred to the Environmental Protection Agency. Employees who 72501
transfer with the positions shall retain their same or 72502
substantially similar positions and all the benefits accruing 72503
thereto. Upon completion of the transfer, the employees shall be 72504

subject to the policies and procedures of the Environmental 72505
Protection Agency. 72506

(E) Whenever the Division of Recycling and Litter Prevention 72507
in the Department of Natural Resources or the Chief of the 72508
Division of Recycling and Litter Prevention is referred to in any 72509
law, contract, or other document, the reference shall be deemed to 72510
refer to the Environmental Protection Agency or to the Director of 72511
Environmental Protection, whichever is appropriate in context. 72512

(F) Any action or proceeding pending on the effective date of 72513
the amendment of the statutes governing the Division of Recycling 72514
and Litter Prevention by this act is not affected by the transfer 72515
of the functions of that Division by this act and shall be 72516
prosecuted or defended in the name of the Environmental Protection 72517
Agency. In all such actions and proceedings, the Environmental 72518
Protection Agency, upon application to the court, shall be 72519
substituted as a party. 72520

Section 737.30. The Recycling and Litter Prevention Advisory 72521
Council created within the Environmental Protection Agency by 72522
section 3736.04 of the Revised Code, as amended and renumbered by 72523
this act, is a continuation of the Recycling and Litter Prevention 72524
Advisory Council created within the Division of Recycling and 72525
Litter Prevention in the Department of Natural Resources by 72526
section 1502.04 of the Revised Code prior to its amendment and 72527
renumbering by this act. 72528

Section 737.40. (A) As used in this section: 72529

(1) "Food service operation," "retail food establishment," 72530
and "vending machine location" have the same meanings as in 72531
section 3717.01 of the Revised Code. 72532

(2) "Micro market" means an area or room that has displays of 72533
not more than two hundred fifty linear feet that offer either of 72534

the following: 72535

(a) Prepackaged foods that are not time- or 72536
temperature-controlled for food safety purposes; 72537

(b) Prepackaged foods that are refrigerated or frozen and 72538
time- or temperature-controlled for food safety purposes and that 72539
are stored in equipment that complies with Chapter 3717-1 of the 72540
Administrative Code. 72541

(B) Until the Director of Agriculture adopts rules under 72542
section 3717.04 of the Revised Code governing the licensure of 72543
micro markets, the operation of a micro market is exempt from the 72544
licensure requirements for retail food establishments, food 72545
service operations, and vending machine locations established 72546
under Chapter 3717. of the Revised Code. This division applies to 72547
a micro market that was previously exempted under division (B)(5) 72548
of section 3717.22 of the Revised Code by the Director from being 72549
licensed as a retail food establishment. 72550

(C) Not later than sixty days following the adoption of rules 72551
by the Director under section 3717.04 of the Revised Code 72552
governing the licensure of micro markets, the operator of a micro 72553
market shall apply for a license in accordance with those rules. 72554

Section 737.50. Not later than 30 days after the amendment by 72555
this act of section 3791.11 of the Revised Code takes effect, the 72556
Treasurer of State shall give written notice to each property 72557
owner or lessee who, under former division (D) of that section, 72558
deposited money or a surety or government-issued bond with the 72559
Treasurer of State that the money will be refunded or the bond 72560
will be released within the following time period, and that the 72561
property owner or lessee must file a bond in the manner required 72562
by division (C) of section 3791.11 of the Revised Code immediately 72563
after the refund or release: 72564

(A) If money was deposited, the Treasurer of State will 72565
refund the money to the property owner or lessee within 180 days 72566
after the effective date of section 3791.11 of the Revised Code, 72567
as amended by this act; 72568

(B) If a surety bond was deposited, the Treasurer of State 72569
will release the bond to the property owner or lessee upon the 72570
earlier of the expiration of the bond or within two years after 72571
the effective date of section 3791.11 of the Revised Code, as 72572
amended by this act; 72573

(C) If a government-issued bond was deposited, the Treasurer 72574
of State will release the bond to the property owner or lessee 72575
within 180 days after the effective date of section 3791.11 of the 72576
Revised Code, as amended by this act. 72577

Section 737.60. LUPUS EDUCATION AND AWARENESS PROGRAM 72578

(A) In establishing the Lupus Education and Awareness Program 72579
under sections 3701.77 to 3701.775 of the Revised Code, as enacted 72580
by this act, the General Assembly hereby finds the following: 72581

(1) Lupus is a serious, complex, and debilitating autoimmune 72582
disease that can cause inflammation and tissue damage to virtually 72583
any organ system in the body, including the skin, joints, other 72584
connective tissue, blood and blood vessels, heart, lungs, kidneys, 72585
and brain. 72586

(2) The Lupus Foundation of America, Inc., estimates that 72587
approximately 1.5 to 2 million Americans live with lupus. 72588

(3) According to the Centers for Disease Control and 72589
Prevention, the rate of lupus mortality has increased since the 72590
late 1970s. 72591

(4) The pain and fatigue associated with lupus can threaten 72592
the ability to live independently, maintain employment, and lead a 72593
normal life. One in five individuals with lupus is disabled by the 72594

disease, and consequently receives support from government 72595
programs, including Medicare, Medicaid, Social Security 72596
Disability, and Social Security Supplemental Income. 72597

(5) The estimated average annual cost of medical treatment 72598
for an individual with lupus is between \$10,000 and \$30,000; for 72599
individuals who have the most serious form of lupus, medical costs 72600
can greatly exceed this amount, causing a significant economic, 72601
emotional, and social burden to the entire family and society. 72602

(6) More than half of individuals with lupus suffer four or 72603
more years and visit three or more physicians before obtaining a 72604
diagnosis of lupus; early diagnosis of and treatment for lupus can 72605
prevent or reduce serious organ damage, disability, and death. 72606

(7) Despite the magnitude of lupus and its impact on 72607
individuals and families, health professional and public 72608
understanding of lupus remains low; only one in five Americans can 72609
provide basic information about lupus, and awareness of lupus is 72610
lowest among adults 18 to 34 years of age - the age group most 72611
likely to develop lupus. 72612

(8) Lupus is a significant national health issue that 72613
deserves a comprehensive and coordinated response by state and 72614
federal governments with involvement of the health care provider, 72615
patient, and public health communities. 72616

(B) The purpose of sections 3701.77 to 3701.775 of the 72617
Revised Code, as enacted by this act, is to create a 72618
multi-pronged, statewide program to promote public and health 72619
professional awareness and increase knowledge concerning the 72620
causes and consequences of lupus, the importance of early 72621
diagnosis and appropriate management, and effective treatment and 72622
management strategies by all of the following: 72623

(1) Conducting educational and training programs for health 72624
professionals on lupus diagnosis and management; 72625

(2) Developing and disseminating educational materials and information to patients and health professionals on lupus research results and health care services available;

(3) Designing and implementing a statewide public education campaign aimed at heightening public awareness of lupus;

(4) Leveraging educational and training resources and services previously developed by organizations with appropriate expertise and knowledge of lupus.

Section 737.70. PILOT PROGRAM FOR OPIOID- AND ALCOHOL-DEPENDENT OFFENDERS

(A) The Department of Alcohol and Drug Addiction Services shall conduct a pilot program to provide to certain opioid-dependent, alcohol-dependent, or opioid- and alcohol-dependent offenders within the criminal justice system treatment to prevent relapse into dependency, including medication-assisted treatment. The medication-assisted treatment shall be provided by using one or more drugs that constitute long-acting antagonist therapy and meet all of the following conditions:

(1) There is no potential for abuse of the drugs by the person to whom they are given or through diversion of the drugs to others.

(2) There is no potential for a person to become addicted to or otherwise dependent on the drugs.

(3) The drugs have been approved by the United States Food and Drug Administration to prevent relapse into opioid dependency, alcohol dependency, or opioid and alcohol dependency.

(B) The Department shall conduct the program in Franklin County and Scioto County and may conduct the program in any one or more other counties the Department selects. In conducting the

program, the Department shall collaborate with the boards of 72656
alcohol, drug addiction, and mental health services that serve the 72657
counties included in the program. The Department also shall 72658
collaborate with the Departments of Mental Health, Job and Family 72659
Services, and Health and with any other state agency that the 72660
Department determines may be of assistance in accomplishing the 72661
objectives of the program. 72662

(C) The program shall serve not more than one hundred fifty 72663
opioid-dependent or alcohol-dependent offenders selected by the 72664
Department, each of whom meets all of the following criteria: 72665

(1) Is either being released from a community-based 72666
correctional facility or being diverted from prosecution under 72667
section 2935.36 of the Revised Code by a county drug court or 72668
municipal court; 72669

(2) Is transitioning to community-based programs as 72670
prescribed by the court; 72671

(3) Was opioid dependent, alcohol dependent, or opioid and 72672
alcohol dependent at the time of committing the offense for which 72673
the offender was most recently sentenced; 72674

(4) Resides in this state and in the offender's own 72675
court-approved residence or court-approved transitional housing. 72676

(D) A program participant shall do both of the following: 72677

(1) Commit to participate in the program for twelve months 72678
and comply with all requirements established by the program, 72679
sentencing court, and treatment providers, including testing, 72680
counseling, medication therapies, and reporting requirements; 72681

(2) Attend any on-site programming specified by the 72682
sentencing court or treatment provider. 72683

(E) Treatment under the program shall be provided by an 72684
alcohol and drug addiction program certified by the Department 72685

under section 3793.06 of the Revised Code. Treatment shall be 72686
based on an integrated service delivery model. The treatment 72687
provider shall do all of the following: 72688

(1) Conduct a professional, comprehensive substance abuse and 72689
mental health diagnostic assessment of each person who is a 72690
potential program participant to determine whether the person is 72691
opioid dependent, alcohol dependent, or opioid and alcohol 72692
dependent and would benefit from substance abuse treatment and 72693
monitoring to address the dependency; 72694

(2) Determine treatment needs for each program participant 72695
based on the diagnostic assessment; 72696

(3) Develop individualized goals and objectives for each 72697
program participant that follow guidelines provided by the 72698
Department; 72699

(4) Provide initial treatment to each program participant by 72700
persons professionally qualified to provide substance abuse 72701
counseling or treatment; 72702

(5) Provide substance abuse and co-occurring disorder 72703
treatment that includes psychosocial therapies and monthly 72704
medication-assisted treatment; 72705

(6) Provide access to long-acting antagonist therapies to the 72706
same extent that access may be provided to any other 72707
medication-assisted treatment approved by the United States Food 72708
and Drug Administration; 72709

(7) Monitor program compliance through regular urinalysis 72710
drug testing. 72711

(F) Not later than three months after the program has ended, 72712
Kent State University shall prepare a report of the findings 72713
obtained from the program, along with its recommendations, if any. 72714
The University shall include in the report data derived from the 72715

drug testing performed under the program. In preparing the report, 72716
the University shall obtain assistance from the Department of 72717
Alcohol and Drug Addition Services. When the report is complete, 72718
the University shall submit the report to the Governor; President 72719
of the Senate; Speaker of the House of Representatives; 72720
Departments of Mental Health, Job and Family Services, and Health; 72721
and any other agency the Department collaborates with in 72722
conducting the program. 72723

Section 747.10.10. (A) The Manufactured Homes Commission 72724
shall adopt the rules required by section 4781.26 of the Revised 72725
Code as amended by this act not later than December 1, 2012. After 72726
adopting the rules, the Commission immediately shall notify the 72727
Director of Health. 72728

(B)(1) The rules governing manufactured home parks adopted by 72729
the Public Health Council under former section 3733.02 of the 72730
Revised Code shall remain in effect in a health district until the 72731
Commission adopts rules under section 4781.26 of the Revised Code 72732
as amended by this act. 72733

(2) On the effective date of the rules adopted by the 72734
Commission as required by section 4781.26 of the Revised Code as 72735
amended by this act, the Public Health Council rules adopted under 72736
former section 3733.02 of the Revised Code cease to be effective 72737
within the jurisdiction of that board of health. 72738

(C) No board of health of a city or general health district 72739
shall invoice or collect manufactured home park licensing fees for 72740
calendar year 2013. 72741

(D) As used in this section: 72742

(1) "Manufactured home park," "board of health," and "health 72743
district" have the same meanings as in section 4781.01 of the 72744
Revised Code, as amended by this act. 72745

(2) "Public Health Council" means the Public Health Council 72746
created by section 3701.33 of the Revised Code. 72747

Section 747.10.20. Any manufactured home park license and 72748
inspection fees collected pursuant to former section 3733.04 of 72749
the Revised Code by a board of health prior to the transition of 72750
the annual license and inspection program to the Manufactured 72751
Homes Commission as required under this act in the amount of two 72752
thousand dollars or less may be transferred to the health fund of 72753
the city or general health district. Any of those funds in excess 72754
of two thousand dollars shall be transferred to the Manufactured 72755
Homes Commission Regulatory Fund created in section 4781.54 of the 72756
Revised Code as enacted by this act. 72757

Section 747.10.30. Notwithstanding the original term of the 72758
appointment, the term of the Manufactured Homes Commission member 72759
who was appointed by the Governor as a representative of the 72760
Department of Health pursuant to division (B)(2)(b) of section 72761
4781.02 of the Revised Code shall end on the effective date of 72762
that section as amended by this act. The initial term of the 72763
registered sanitarian appointed to the Manufactured Homes 72764
Commission pursuant to section 4781.02 of the Revised Code, as 72765
amended by this act, shall expire on the date when the 72766
representative of the Department of Health's term would have 72767
expired, but for this section. 72768

Section 747.20.10. On the effective date of the amendments 72769
made to section 4765.02 of the Revised Code by this act, the 72770
member of the renamed State Board of Emergency Medical, Fire, and 72771
Transportation Services who is an administrator of an adult or 72772
pediatric trauma center shall cease to be a member of the Board. 72773
On the effective date of the amendments made to section 4765.02 of 72774
the Revised Code by this act, the member of the renamed State 72775

Board of Emergency Medical, Fire, and Transportation Services who 72776
is a member of the Ohio Ambulance Association shall cease to be a 72777
member of the Board. On the effective date of the amendments made 72778
to section 4765.02 of the Revised Code by this act, the member of 72779
the renamed State Board of Emergency Medical, Fire, and 72780
Transportation Services who is a physician certified by the 72781
American board of surgery, American board of osteopathic surgery, 72782
American osteopathic board of emergency medicine, or American 72783
board of emergency medicine, is chief medical officer of an air 72784
medical agency, and is currently active in providing emergency 72785
medical services shall cease to be a member of the Board. On the 72786
effective date of the amendments made to section 4765.02 of the 72787
Revised Code by this act, of the members of the renamed State 72788
Board of Emergency Medical, Fire, and Transportation Services who 72789
were EMTs, advanced EMTs, or paramedics and were appointed to the 72790
Board in that capacity, only the members who are designated by the 72791
Governor to continue to be members of the Board shall continue to 72792
be so; the other persons shall cease to be members of the Board. 72793
On the effective date of the amendments made to section 4765.02 of 72794
the Revised Code by this act, the member of the renamed State 72795
Board of Emergency Medical and Transportation Services who is a 72796
registered nurse and is in the active practice of emergency 72797
nursing shall cease to be a member of the Board. Not later than 72798
sixty days after the effective date of those amendments, the 72799
Governor shall appoint to the renamed State Board of Emergency 72800
Medical and Transportation Services a registered nurse with EMS 72801
certification who is in the active practice of critical care 72802
nursing. The Governor shall appoint this member from among three 72803
persons nominated by the Ohio Nurses Association and three persons 72804
nominated by the Ohio State Council of the Emergency Nurses 72805
Association. 72806

On the effective date of the amendments made to section 72807

4765.02 of the Revised Code by this act, all members of the former State Board of Emergency Medical Services who do not cease to be members of the renamed State Board of Emergency Medical, Fire, and Transportation Services by the terms of this act shall continue to be members of the renamed State Board of Emergency Medical, Fire, and Transportation Services, and the dates on which the terms of the continuing members expire shall be the dates on which their terms as members of the former State Board of Emergency Medical Services expired. On the effective date of the amendments made to section 4765.02 of the Revised Code by this act, the following members of the former Ohio Medical Transportation Board shall become members of the State Board of Emergency Medical, Fire, and Transportation Services, and the dates on which those members' terms on the State Board of Emergency Medical, Fire, and Transportation Services expire shall be as follows:

(A) The person who owns or operates a private emergency medical service organization operating in this state, as designated by the Governor, term ends November 12, 2012;

(B) The person who owns or operates a nonemergency medical service organization that provides only ambulance services, term ends November 12, 2012;

(C) The person who is a member of the Ohio Association of Critical Care Transport and represents air-based services, term ends November 12, 2013.

(D) The person who is a member of the Ohio Association of Critical Care Transport and represents a ground-based mobile intensive care unit organization, term ends November 12, 2013.

All subsequent terms of office for these six positions on the State Board of Emergency Medical, Fire, and Transportation Services shall be for three years as provided in section 4765.02 of the Revised Code.

Section 747.20.20. TRANSFER OF THE MEDICAL TRANSPORTATION BOARD TO THE DEPARTMENT OF PUBLIC SAFETY

On July 1, 2012, the Medical Transportation Board and all of its functions are transferred to the Department of Public Safety. As of such date, the Medical Transportation Board shall operate under the Department of Public Safety, which shall assume all of the Board's functions. All assets, liabilities, any capital spending authority related thereto, and equipment and records, regardless of form or medium, related to the Medical Transportation Board's functions are transferred to the Department of Public Safety on July 1, 2012.

No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer. All of the Medical Transportation Board's rules, orders, and determinations continue in effect as rules, orders, and determinations of the Department of Public Safety until modified or rescinded by the Department of Public Safety.

Subject to the lay-off provisions of sections 124.321 to 124.328 of the Revised Code, all employees of the Medical Transportation Board are transferred to the Department of Public Safety and shall retain their positions and all benefits accruing thereto.

No action or proceeding pending on July 1, 2012, is affected by the transfer and any action or proceeding pending on July 1, 2012, shall be prosecuted or defended in the name of the Department of Public Safety or its director. In all such actions and proceedings, the Department of Public Safety or its director, upon application to the court, shall be substituted as a party.

On or after July 1, 2012, notwithstanding any provision of law to the contrary, the Director of Budget and Management shall take any action with respect to budget changes made necessary by

the transfer. The Director may transfer cash balances between 72870
funds. The Director may cancel encumbrances and reestablish 72871
encumbrances or parts of encumbrances as needed in the fiscal year 72872
in the appropriate fund and appropriation item for the same 72873
purpose and to the same vendor. As determined by the Director, 72874
encumbrances reestablished in the fiscal year in a different fund 72875
or appropriation item used by an agency or between agencies are 72876
appropriated. The Director shall reduce each year's appropriation 72877
balances by the amount of the encumbrance canceled in their 72878
respective funds and appropriation item. Any unencumbered or 72879
unallocated appropriation balances from the previous fiscal year 72880
may be transferred to the appropriate appropriation item to be 72881
used for the same purposes, as determined by the Director. Any 72882
such transfers are hereby appropriated. 72883

Section 751.10. LICENSURE OF ICFs/MR AS RESIDENTIAL 72884
FACILITIES 72885

(A) Until July 1, 2013, a person or government agency that, 72886
on the effective date of this section, operates an intermediate 72887
care facility for the mentally retarded pursuant to a nursing home 72888
license issued under Chapter 3721. of the Revised Code shall not 72889
be subject to a penalty under section 5123.99 of the Revised Code 72890
for operating the facility without a license issued under section 72891
5123.19 of the Revised Code notwithstanding sections 5123.20 and 72892
5123.99 of the Revised Code. 72893

(B) Notwithstanding the amendments by this act to sections 72894
3702.62, 3721.01, and 5123.19 of the Revised Code and the repeal 72895
by this act of section 5123.192 of the Revised Code, an 72896
intermediate care facility for the mentally retarded that is 72897
licensed as a nursing home under Chapter 3721. of the Revised Code 72898
on the effective date of this section shall continue to be a 72899
nursing home for the purposes for which it is considered to be a 72900

nursing home under the law in effect on the day immediately 72901
preceding the effective date of those amendments and that repeal 72902
until the earliest of the following: 72903

(1) The date that the facility's nursing home license is 72904
revoked or voided under section 3721.07 of the Revised Code; 72905

(2) The date that a residential facility license is obtained 72906
for the facility under section 5123.19 of the Revised Code; 72907

(3) July 1, 2013. 72908

(C) Notwithstanding the amendment by this act to section 72909
3721.21 of the Revised Code, a nursing home or part of a nursing 72910
home certified as an intermediate care facility for the mentally 72911
retarded on the effective date of this section shall continue to 72912
be excluded from the definition of "long-term care facility" in 72913
that section for as long as it is certified as an intermediate 72914
care facility for the mentally retarded. 72915

(D) Notwithstanding the amendment by this act to section 72916
3721.50 of the Revised Code, a nursing home or part of a nursing 72917
home licensed under section 3721.02 or 3721.09 of the Revised Code 72918
that is certified as an intermediate care facility for the 72919
mentally retarded on the effective date of this section shall 72920
continue to be exempt from the franchise permit fee under sections 72921
3721.50 to 3721.58 of the Revised Code and instead subject to the 72922
franchise permit fee under sections 5112.30 to 5112.39 of the 72923
Revised Code for as long as it is certified as an intermediate 72924
care facility for the mentally retarded. 72925

(E) Notwithstanding the amendment by this act to section 72926
5123.41 of the Revised Code, a nursing home or part of a nursing 72927
home that is certified as an intermediate care facility for the 72928
mentally retarded on the effective date of this section shall 72929
continue to be a residential facility for the purpose of section 72930
5123.41 of the Revised Code for as long as it is certified as an 72931

intermediate care facility for the mentally retarded or is 72932
licensed under section 5123.19 of the Revised Code. 72933

(F) Notwithstanding the amendment by this act to section 72934
5126.51 of the Revised Code, a nursing home or part of a nursing 72935
home that is certified as an intermediate care facility for the 72936
mentally retarded on the effective date of this section shall 72937
continue to be a residential facility for the purpose of section 72938
5126.51 of the Revised Code for as long as it is certified as an 72939
intermediate care facility for the mentally retarded or otherwise 72940
meets the definition of "residential facility" in section 5123.19 72941
of the Revised Code. 72942

Section 751.10.10. ADULT CARE FACILITY LICENSURE TRANSITION 72943

Pursuant to the amendment and repeal by this act of sections 72944
5119.22, 5119.70 to 5119.88, and 5119.99 of the Revised Code, the 72945
Director of Mental Health may convert an adult care facility's 72946
license in effect immediately before the effective date of this 72947
section to a license as a residential facility. Until the Director 72948
converts the license or issues an order denying the conversion, 72949
the adult care facility's license is deemed to be a residential 72950
facility license. All rules, orders, and determinations pertaining 72951
to the adult care facility license continue in effect as rules, 72952
orders, and determinations pertaining to the residential facility 72953
license. 72954

Section 751.20. The amendments by this act to Section 3 of 72955
Am. Sub. S.B. 38 of the 120th General Assembly eliminate the 72956
exemptions from the requirements of sections 3701.881 and 5126.28 72957
of the Revised Code that Section 3 of that act gave to persons 72958
who, before October 29, 1993, were employed or had applied for 72959
employment in positions covered by sections 3701.881 and 5126.28 72960
of the Revised Code. The amendments by this act to Section 3 of 72961

Am. Sub. S.B. 160 of the 121st General Assembly eliminate the 72962
exemptions from the requirements of sections 173.41 (as 72963
subsequently renumbered as 173.394) and 3701.881 of the Revised 72964
Code that Section 3 of that act gave to persons who, before 72965
January 27, 1997, were employed or had applied for employment in 72966
positions covered by sections 173.41 (173.394) and 3701.881 of the 72967
Revised Code. The exemptions are eliminated in conjunction with 72968
this act's amendments to sections 173.394, 3701.881, and 5123.081 72969
of the Revised Code and the repeal of section 5126.28 of the 72970
Revised Code so that the Directors of Aging, Health, and 72971
Developmental Disabilities may adopt rules under those amended 72972
sections to make persons formerly exempt from the requirements of 72973
sections 173.394, 3701.881, and 5126.28 of the Revised Code 72974
subject to the requirements of sections 173.394, 3701.881, and 72975
5123.081 of the Revised Code. 72976

Section 753.11. (A) Notwithstanding section 3313.41 of the 72977
Revised Code, during the period beginning June 30, 2005, and 72978
ending December 31, 2005, a school district board of education in 72979
support of economic development within the territory of the 72980
district may dispose of real property that it owns in its 72981
corporate capacity, and that exceeds in value ten thousand 72982
dollars, by direct sale in lieu of offering the property for sale 72983
at public auction as provided in division (A) of that section, in 72984
lieu of offering the property for sale to an entity listed in 72985
division (C) of that section, or in lieu of offering the property 72986
for sale to a community school as provided in division (G) of that 72987
section, if all of the following conditions are satisfied: 72988

(1) The real property is encumbered by easements, liens, or 72989
other use restrictions that benefit the person acquiring the 72990
property under this section; 72991

(2) The real property was part of or adjacent to real 72992

property previously disposed of by the board of education; 72993

(3) The real property when sold will be used for commercial 72994
development. 72995

(B) Notwithstanding division (A)(3) of this section, on or 72996
after the effective date of this section, the real property may be 72997
used for residential development as well as commercial 72998
development. 72999

Section 806.10. The items of law contained in this act, and 73000
their applications, are severable. If any item of law contained in 73001
this act, or if any application of any item of law contained in 73002
this act, is held invalid, the invalidity does not affect other 73003
items of law contained in this act and their applications that can 73004
be given effect without the invalid item of law or application. 73005

Section 812.10. Sections subject to referendum: general 73006
effective date. Except as otherwise provided in this act, the 73007
amendment, enactment, or repeal by this act of a section is 73008
subject to the referendum under Ohio Constitution, Article II, 73009
Section 1c and therefore takes effect on the ninety-first day 73010
after this act is filed with the Secretary of State. 73011

Section 812.20. Sections exempt from referendum: general 73012
effective date. The amendment, enactment, or repeal by this act of 73013
the following sections is exempt from the referendum under Ohio 73014
Constitution, Article II, Section 1d and section 1.471 of the 73015
Revised Code and therefore takes effect immediately when this act 73016
becomes law: 73017

Sections 120.08, 145.01, 145.012, 167.04, 306.04, 306.36, 73018
340.091, 901.54, 2927.023, 2945.371, 2945.38, 2945.39, 2945.40, 73019
2945.401, 3125.41, 3734.131, 3734.15, 3743.06, 3743.19, 3752.06, 73020
4163.07, 4303.22, 4501.01, 4501.06, 4503.81, 4506.01, 4506.03, 73021

4506.22, 4506.25, 4511.78, 4513.50, 4905.01, 4905.02, 4905.03, 73022
4905.05, 4905.06, 4905.402, 4905.54, 4905.57, 4905.58, 4905.80, 73023
4905.801, 4905.81, 4905.82, 4905.83, 4905.84, 4907.01, 4907.02, 73024
4907.04, 4907.08, 4907.19, 4907.28, 4907.35, 4907.37, 4907.43, 73025
4907.49, 4907.57, 4907.59, 4907.60, 4907.61, 4907.62, 4909.01, 73026
4909.02, 4909.03, 4909.17, 4909.22, 4909.24, 4909.28, 4911.01, 73027
4919.75, 4919.76, 4919.77, 4919.78, 4919.79, 4919.99, 4921.01, 73028
4921.02, 4921.03, 4921.04, 4921.05, 4921.06, 4921.07, 4921.08, 73029
4921.09, 4921.10, 4921.101, 4921.11, 4921.12, 4921.13, 4921.14, 73030
4921.15, 4921.16, 4921.17, 4921.18, 4921.19, 4921.20, 4921.21, 73031
4921.23, 4921.24, 4921.25, 4921.26, 4921.27, 4921.28, 4921.30, 73032
4921.31, 4921.32, 4921.34, 4921.35, 4921.36, 4921.37, 4921.38, 73033
4921.39, 4921.40, 4921.99, 4923.01, 4923.02, 4923.03, 4923.04, 73034
4923.05, 4923.06, 4923.07, 4923.08, 4923.09, 4923.10, 4923.11, 73035
4923.12, 4923.13, 4923.14, 4923.15, 4923.17, 4923.20, 4923.26, 73036
4923.99, 4927.01, 4929.01, 4929.02, 4933.18, 4933.19, 4939.01, 73037
4953.04, 4961.03, 4965.54, 5119.691, 5503.02, 5503.34, 5743.031, 73038
and 5751.033 of the Revised Code. 73039

Section 205.10 of Am. Sub. H.B. 114 of the 129th General 73040
Assembly, as amended by Am. Sub. H.B. 153 of the 129th General 73041
Assembly. 73042

Section 201 of Sub. H.B. 123 of the 129th General Assembly. 73043

Section 1 of H.B. 124 of the 129th General Assembly. 73044

Sections 205.10, 207.10, 207.10.80, 207.20.10, 207.20.30, 73045
207.20.90, 209.10, 211.10, 215.10, 223.10, 229.10, 243.10, 261.10, 73046
261.10.40, 261.10.70, 261.20.10, 261.20.40, 261.20.50, 261.20.60, 73047
261.20.80, 261.20.90, 261.30.10, 261.30.20, 261.30.30, 261.30.40, 73048
261.30.60, 261.30.70, 261.30.80, 261.30.90, 261.40.10, 263.10, 73049
263.10.30, 263.10.90, 263.20.40, 263.20.70, 267.10, 267.10.20, 73050
267.10.40, 267.30.40, 279.10, 291.10, 307.10, 309.10, 315.10, 73051
327.10, 335.10, 337.10, 343.10, 365.10, 367.10, 369.10, 371.10, 73052
371.50.61, 371.60.80, 373.10, 375.10, 379.10, 387.10, 403.10, 73053

411.10, 415.10, 503.50, 521.70, and 701.40 of Am. Sub. H.B. 153 of the 129th General Assembly. 73054
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Section 247.10 of Am. Sub. H.B. 153 of the 129th General Assembly, as amended by Sub. H.B. 319 of the 129th General Assembly. 73056
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Sections 261.10 and 261.20.93 of Am. Sub. H.B. 153 of the 129th General Assembly, as amended by Sub. H.B. 371 of the 129th General Assembly. 73059
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Sections 701.70.10, 701.80, 701.90, 701.91, and 733.10 of this act. 73062
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Section 812.20 of this act. 73064

Section 812.30 of this act insofar as it refers to parts of sections that are exempt from the referendum. 73065
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Section 812.21. Sections exempt from the referendum, special effective date. The amendment by this act of sections 3313.976, 3313.978, and 3313.979 of the Revised Code is exempt from the referendum under Ohio Constitution, Article II, Section 1d and section 1.471 of the Revised Code and is therefore entitled to take effect immediately when this act becomes law. However, the amendment of those sections takes effect on July 1, 2012, or the date this act becomes law, whichever is later. 73067
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Section 812.30. Mixed sections: general effective dates. The sections listed in the left-hand column of the following table combine amendments by this act that are and that are not exempt from the referendum. The middle column identifies amendments to the listed sections that are subject to the referendum under Ohio Constitution, Article II, Section 1c and therefore take effect on the ninety-first day after this act is filed with the Secretary of State. The right-hand column identifies amendments to the listed sections that are exempt from the referendum under Ohio 73075
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Constitution, Article II, Section 1d and section 1.471 of the Revised Code and therefore take effect immediately when this act becomes law.			73084 73085 73086
Section of law	Amendments subject to referendum	Amendments exempt from referendum	73087
120.08	The amendments in the second sentence (1) striking "purpose" and inserting "purposes" and (2) inserting the language that begins with "and operating" and ends with "120.33 of the Revised Code"	All amendments except middle column	73088
4905.90	The amendment in division (A)	All amendments except as described in the middle column	73089
5111.941	The amendment that inserts division (A)(4)	All amendments except as described in the middle column	73090
5119.61	All amendments except as described in the right-hand column	The amendment in division (A) striking "(C)" and inserting "(D)" and the amendment in division (F) striking "abuse" and inserting "addiction"	73091
5119.69	The amendments in relettered divisions (D)(1)(b) and (c)	All amendments except as described in the middle column	73092
5502.01	All amendments except as described in the right-hand column	The amendment in division (F)	73093

Section 815.20. The General Assembly, applying the principle 73094
stated in division (B) of section 1.52 of the Revised Code that 73095
amendments are to be harmonized if reasonably capable of 73096
simultaneous operation, finds that the following sections, 73097
presented in this act as composites of the sections as amended by 73098
the acts indicated, are the resulting versions of the sections in 73099
effect prior to the effective date of the sections as presented in 73100
this act: 73101

Section 102.02 of the Revised Code as amended by both Am. 73102
Sub. H.B. 153 and Sub. S.B. 171 of the 129th General Assembly. 73103

Section 121.04 of the Revised Code as amended by both Am. 73104
Sub. H.B. 153 and Sub. H.B. 229 of the 129th General Assembly. 73105

Section 123.01 of the Revised Code as amended by both Am. 73106
Sub. H.B. 133 and Am. Sub. H.B. 153 of the 129th General Assembly. 73107

Section 124.11 of the Revised Code as amended by both Am. 73108
Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. 73109

Section 149.43 of the Revised Code as amended by both Sub. 73110
H.B. 64 and Am. Sub. H.B. 153 of the 129th General Assembly. 73111

Section 1923.01 of the Revised Code as amended by both Sub. 73112
H.B. 56 and Am. Sub. S.B. 10 of the 127th General Assembly. 73113

Section 1923.02 of the Revised Code as amended by both Sub. 73114
H.B. 56 and Am. Sub. S.B. 10 of the 127th General Assembly. 73115

Section 3301.55 of the Revised Code as amended by both Am. 73116
Sub. H.B. 1 and Sub. S.B. 79 of the 128th General Assembly. 73117

Section 4731.22 of the Revised Code as amended by both H.B. 73118
78 and Am. Sub. H.B. 93 of the 129th General Assembly. 73119